Supreme Court, U.S
FILED

10-707 NOV 26 2010

No. 10- OFFICE OF THE CLERK

IN THE
Supreme Court of the United States

LORNA ROOS,

Petitioner,

v.

MICHAEL Y. ROOS,

Respondent.

On Petition For Writ Of Certiorari
To The
California Court Of Appeal,
Second Appellate District, Division Three

PETITION FOR WRIT OF CERTIORARI
APPENDICES G-S

LORNA ROOS IN PRO PER
1482 East Valley Road, #305
Santa Barbara, CA 93108
(805) 845-8395

Appendix G

Court Docket

case no. BD202859

Documents Filed (Filing dates listed in descending order)

04/15/2009 Application-Ex-Parte-and Order

01/28/2009 Proof of Service
Filed by Petitioner

01/28/2009 Responsive Declaration
Filed by Petitioner

01/16/2009 Proof of Service-Form 328

10/15/2008 Responsive Declaration

10/15/2008 Objection

09/29/2008 OSC-Other
Filed by Petitioner in Pro Per

09/24/2008 Notice re: Payment of Support

08/29/2008 Order-After Hearing

04/01/2008 Objection

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04/01/2008 Miscellaneous
Filed by Respondent in Pro per

04/01/2008 Miscellaneous
Filed by Petitioner in Pro Per

02/28/2008 Proof of Service
Filed by Respondent in Pro per

02/26/2008 Motion-Quash
Filed by Respondent in Pro per

02/08/2008 Declaration
Filed by Respondent in Pro per

02/08/2008 Declaration-Income & Expense
Filed by Respondent in Pro per

11/30/2007 OSC-Declaration for Contempt (2-CONTEMPTS FILED)
Filed by Petitioner in Pro Per

07/03/2007 Declaration

07/03/2007 Objection

06/21/2007 Proof of Service-Mail
Filed by Petitioner

06/15/2007 Order-Show Cause

Courtnet/imternet/civilcasesummary/ 6/2/2009

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Dept: CE 83

Date	10-28-09		
Honorable	RUDOLPH DIAZ Judge	G. REGALADO	Deputy Clerk
Honorable	Judge Pro Tem	M. BAXTER	Court Assistant
J. PENA	Deputy Sheriff	B. MENDOZA CSR #3527	Reporter

8:30 a.m. BD202859

Roos, Lorna (X) — Counsel For Petitioner — In Pro Per (x)

VS

Roos, Michael (N/A) — Counsel For Respondent

Nature of Proceedings: PETITIONER'S MOTION- TO SET ASIDE JUDGMENT DATED 6-4-04 AND FOR ATTORNEY FEES (TRANSFERRED FROM DEPT. 2)

The matter is called for hearing.
The Court must read and consider the large number
Of documents submitted by petitioner.
The matter is continued in this department to 1-28-09 at 8:30 a.m.
Notice by petitioner.

DEPT CE 83

MINUTES ENTERED
10-28-09
COUNTY CLERK

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA,
SECOND APPELLATE DISTRICT
- DIVISION THREE

LORNA ROOS)
) 2 " Civil No. B 216438
Appellant;)
) (Super Ct. No. BD 202859
vs.) Los Angeles County)
MICHAEL ROOS,)
Respondent.)
_____)

Appeal from Los Angeles Superior Court Honorable Rudolph Diaz, Judge Presiding Los Angeles Superior Court No. BD 202859

RESPONDENT'S BRIEF

INTRODUCTION

Respondent MICHAEL ROOS hereby files his Respondent's Brief, in response to the Opening Brief of Appellant LORNA ROOS.

JORDON METZ, Esq.
Attorney for Respondent MICHAEL ROOS

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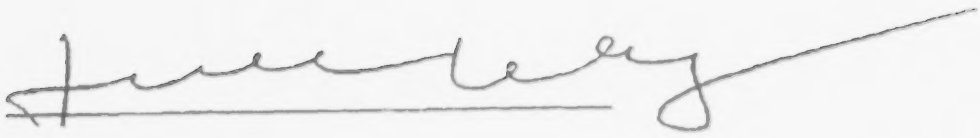

Dated:
November 25, 2009

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STATEMENT OF THE CASE AND STATEMENT OF THE FACTS

The parties involved in this case on Appeal are Appellant LORNA ROOS (the Petitioner from the trial case) and Respondent MICHAEL ROOS (also the Respondent in the trial case). For the purpose of simplicity, Respondent MICHAEL ROOS will at times refer to the Parties in the manner as does the Appellant; that is, with Appellant LORNA ROOS typically referred to as 'Lorna,' and Respondent MICHAEL ROOS typically referred to as 'Respondent.' However, when it is extremely important to distinguish the Parties by name, Appellant will be referred to as 'Lorna Roos,' or 'Ms. Roos,' and Respondent will be referred to as

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`Michael Roos' or `Mr. Roos.'

The Parties were married in 1988 and separated permanently in 1999. There were two children born of the marriage. There was a Custody Evaluation, pursuant to *Evidence Code §730,* performed by Kay Bathurst, PhD, Licensed Psychologist, Member of the Psychiatric Office, Psychiatric and Psychological Consultants, of Los Angeles, prior to trial. The report indicated, amongst other things, some fairly significant findings, such as the following:

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"The thoughts..[LORNA ROOS]...expressed to me and presented in documents are outlandish, bizarre, and scary, to say the least.... [I]t is clear that she requires professional intervention, and such is my recommendation. Lorna makes up things and has an imagination without limits.

"...[LORNA ROOS] exhibits socially inappropriate behavior and does not seem to recognize societal boundaries and her own improprieties and inconsistencies. Some examples include writing a letter directly to the Judge asking for his help, then turning around and accusing him of getting the mayor involved.... She lied outright on several occasions, for example, about [issues relating to the

children's supposed] school absences and tardiness, doctor's appointments, abuse allegations, and Michael [ROOS]. She exhibits delusional thought, has been in several car accidents where she is rear-ended, does not work outside the home, seems to have limited interests outside the girls and her sister, has many physical complaints, made the comment that she is dying, which must be devastating for the...[daughters]...to hear, and sees the[daughters] as sickly as well." *(Confidential Custody Evaluation,* presented to The Honorable Kenneth Black, by Kay Bathurst, PhD, Licensed Psychologist, Member of the Psychiatric Office, February 22, 2002, pp. 49-50.)

However, Judge Black indicated that he was not going to follow the Child Custody Evaluation. Accordingly, the issue resolved via stipulation

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between the Parties. (AA 1101.)

Following a Trial on the issues that were not reserved, that is, focusing at Trial on the property and financial issues, including Spousal Support and Child Support, in April of 2004, Judge Kenneth Black made thorough and detailed findings of fact and determinations of what would constitute proper equalization and support.

The Judgment Regarding Division of Property After Trial (Partial Judgment - All Other Issues Reserved) was filed on June 4, 2004. (AA 524.)

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Amongst the Court's findings in the Judgment were the following: (1) Division of all Community Property, which included division of retirement accounts, brokerage accounts, large amounts of Blue Chip stocks, and a membership in a country club; (2) *Marriage of Epstein* credits payable to MICHAEL ROOS, educational reimbursement credits payable to LORNA ROOS, and other credits, including reimbursements to MICHAEL ROOS for community property accounts which had been liquidated by LORNA ROOS; (3) division of equity in the family dwelling; (4) confirmation of Respondent's separate property including stock in Park`'AA' shall refer to the Appellant's Appendix, followed by the page number, which, with the exception of documents which Appellant has submitted for augmentation purposes, forms the Record on Appeal.

3.

Place Entertainment Corporation a parent corporation of the Grand Casinos and Lakes Gaming and Lake Casino; and, in addition, that LORNA ROOS had failed to prove at trial that she was entitled for credit for interest she had claimed in various other items, such as a business loan made to an associate of the Respondent's, a second trust deed, membership in The California Club, and Dodgers Baseball season tickets. (AA 525-528)

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At trial, the Court also found that LORNA ROOS had taken community property as well as some of Respondent's separate property and stored it without Mr. ROOS' consent, and in violation of Judge Black's orders. (AA 528.)

The Court ordered Respondent to make an Equalization Payment to LORNA ROOS of $185,109.00, which included a cash payment of $110,134.00, for division of Community Property, and some additional credits as outlined in the Order After Hearing. (AA 529.)

As for Child Support, Mr. ROOS was ordered to pay $6,958.00 for support of the two minor children (allocated as per Guideline Child Support). (AA 529.)

As for Spousal Support, Mr. ROOS was ordered to pay to LORNA ROOS the sum of $10,000, per month, in Spousal Support up through April of 2006, after which Spousal Support would be stepped down to an amount

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of $8,000, per month, payable until the death of either Party, the remarriage of LORNA ROOS, or further Court Order. (AA 530.)

In an Order to Show Cause brought by Ms. ROOS in

2007, and resolved after hearing in 2008, Child Support was modified to $12,496.00, per month, allocated between the two children according to Child Support Guidelines. (AA 547-550.)

In September of 2008, LORNA ROOS brought a Motion to Set Aside Judgment of June 4, 2004 (the Judgment Regarding Division of Property). More than four years after the Entry of Judgment in the matter, Ms. ROOS sought to set aside nearly every finding which led to a division of property at the time of trial on the basis of "actual fraud, perjury, mistakes, and failure to comply with disclosure requirements." (AA 50:34.[2])

Ms. ROOS' Motion failed to include a Memorandum of Points and Authorities which cited any case law (or even the applicable *Code of Civil Procedure* statute, CCP §473), though it did claim itself to be timely. (AA

'When possible, Respondent will attempt to include approximate line numbers, if it will be easier for the reviewer of the record to find statements which Respondent is referring to in his reference to the record. Because most of (then Petitioner) LORNA ROOS' pleadings are drafted defectively; that is, not on proper pleading paper, not double-spaced, and sometimes even handwritten, it is difficult if not impossible to refer to line numbers with any

precision. Nevertheless, Respondent will do his best if he feels it will aid the reviewer of the record for him to do so.

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49:9-10.)

It is unclear from the record, and Appellant's Appendix does not make it any clearer to the reviewing court, what documents, statements, and/or declarations were available to the Court as submitted evidence. However, as the Respondent's Attorney is also representing Respondent in the case on Appeal, it can be confirmed that Ms. ROOS' Case overview, consisting of a 16-page single-spaced email served as her Declaration for the Court in the Motion to Set Aside, and included an Exhibit List, consisting of either 88 or 105 exhibits (the exhibits are numbered from 1 to 87, and then inexplicably jump to 105.) (AA 175, AA 191.)

Amongst the claims made in the Motion to Set Aside Declaration (which actually was not sworn to under penalty of perjury) were those which seemed to echo claims made during the Trial in April of 2004. Some of these included new claims, however, abounding with conspiracy theories, complicity of Judge Black and others, ostensibly to shield Mr. ROOS from criminal prosecution. Some of the claims harken directly back to findings made at the time of

trial, but which Ms. ROOS still cannot accept, for whatever reason. (AA 178.)

The 'Case Overview' is rife with inflammatory statements, bold expressions of dizzying scope such as "Mike Roos is a criminal and

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apparently has control over Judge Kenneth Black," (AA 179:15.), and overflows with confidence that the reader, hence, this reviewing court, naturally agrees with her. As an example, "Let's not forget the malice and oppression generated by Respondent in this case and all the physical abuse." (AA 190:30.)

Oddly, in her Motion to Set Aside, LORNA ROOS also asked for a Statement of Decision from her April 2004 Trial, in spite of the fact that there is no evidence that she had ever asked for one at the time of trial, and in spite of the fact that the Minute Order from the Trial reflects that Respondent was ordered to prepare the Order After Hearing, referred to and quoted from above. (AA 538.)

In spite of Ms. ROOS' confidence that her Motion would be granted because of what she saw as an overwhelming amount of evidence in her favor, the Court denied the Motion to Set Aside Judgment of June 2, 2004, on April 27, 2009. (AA 1277.) Prior to her being ejected from Judge Rudolph Diaz' court, Ms. ROOS commented that she "hope[d]...you

all get indicted... It's...disgusting, fricking disgusting." (AA 1287:18-25.)

Ms. ROOS filed a timely Notice of Appeal, requesting that this Court review the denial of her Motion to Set Aside Judgment. (AA 1292.)

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II.

ARGUMENT.

PREFATORY STATEMENT REGARDING APPELLANT'S ARGUMENTS.

Appellant LORNA ROOS's Opening Brief consists of largely two main conclusory arguments:

First, that no matter what the findings were at the time of trial in 2004, or even at the time of the Motion to Set Aside in 2009, that the web of lies, which has spread to include not only the Respordent, but the District Attorney (Respondent believes Appellant means Child Support Services Division when she refers to the 'DA'), the Los Angeles Superior Court, prominent Los Angeles attorney Tom Girardi, and others, is evidence enough that all her claims are valid and should justify all the five year old orders being set aside in their entirety.

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Second, that the Trial Court, at a time not entirely clear in Appellant's Opening Brief, but which Respondent believes is at or near to the time of Trial in 2004, gave

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Respondent credits for Child Support payments made during a hearing on Child Support; that such credits should not have been given to Respondent, and that the Trial Court did so in violation of the Family Code.

Finally, although not explicitly stated by LORNA ROOS as an object of her appeal, likely because she is well past the Statute of Limitations which would apply in such cases, is Appellant's contention that Respondent MICHAEL ROOS breached disclosure requirements and violated a spouse's Fiduciary Duty as delineated through *Family Code §1101.* In her *Motion to Set Aside Judgment,* and therefore in her Appeal based upon same, Ms. ROOS largely bases her claims for failure to disclose or breach of fiduciary duty on several arguments which were raised at the time of trial, from 2002 through 2004, when the trial concluded. One new theory surfaced, what Ms. ROOS refers to as her "new evidence," regarding what Ms. ROOS alleges to be the true origins of the "Roos Trust." (AA 26.)

As a way to restart the Statute of Limitations

regarding Breach of Fiduciary Duty, Appellant recycles old arguments as "new evidence" which was "recently discovered" in her attempt to sway the reviewing court that her efforts should be rewarded today, although they were not persuasive, either in 2002, when oral testimony concluded, or in 2004, when the finder

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of fact made its rulings, with the one new theory being that the Roos Family Trust was a sham. (AA 66-74.)

But most prominent in weaving its way throughout Appellant's Opening Brief, is the position that because MICHAEL ROOS is a prominent business man, he has somehow managed to manipulate the Court and circumvent the judicial process as a result. Included in Ms. ROSS' allegations, to name just a few, is that Respondent, along with his now deceased mother, created a Family Trust which fraudulently presented itself as having been created by Respondent's parents together, that said Family Trust was a "sham" or "shell" which was used mainly to drain away assets from the Community Property of the marriage (AA 32), that Respondent purposely hid a doctor's diagnosis of cancer from the Appellant (AA 28), that Appellant was denied access to the Discovery process (AA 30), and on and on.

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It is difficult if not impossible to wade through all of the self-serving stream of consciousness style Opening Brief, to try and isolate what evidence, if any, is pointed to by LORNA ROOS' rambling accusations. Yet Respondent will try and do his best, in an effort to simplify the reviewing Court's job in this matter.

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PREFATORY STATEMENT APPELLANT'S *STATEMENT OF APPEALABILITY* LACKS ANY MENTION OF WHAT ORDERS ARE INDEED APPEALABLE. IN ADDITION, THE SUPPORT ORDERS REFERRED TO BY APPELLANT ARE FAR TOO REMOTE TO BE APPEALED, AND THE STATUTE OF LIMITATIONS BARS APPELLANT'S ABILITY TO NOW CLAIM BREACH OF FIDUCIARY DUTY, AS SHE RECYCLES OLD ARGUMENTS IN AN ATTEMPT TO CONVINCE THE REVIEWING COURT THAT THERE IS INDEED `RECENTLY DISCOVERED NEW EVIDENCE.'

Finally, Appellant's *Statement of Appealability*, such as it is, makes no mention of what orders are being appealed, makes no mention of any Standard

of Review which would serve to edify the reviewing Court as to what measurement or test should be used to review such orders, and, in fact, fails to mention when the Child Support Orders (and/or Spousal Supports Orders, as it isn't clear if either or both are being challenged) were made which are also ostensibly being appealed.

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A. The Standard of Review for a Court of Appeal's Review of a Motion to Set Aside a Judgment is That of Abuse of Discretion.

In order to reverse a lower court's denial of a *Motion to Set Aside Judgment*, the reviewing court must find there was an abuse of discretion at the trial level. Because there are different statutory schemes available for litigants at the trial level, however, the *Family Code* itself elucidates how motions to set aside judgments based on fraud, perjury, coercion, or duress should be considered by the trial court.

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Though she does not cite from it explicitly in either her *Memorandum of Points and Authorities* filed at the time of her *Motion to Set Aside Judgment* or in her Appellant's Opening Brief, Ms. ROOS' motion to set aside the judgment was apparently filed based on sections of the Family Code providing for such relief from judgment in marital dissolution cases where the division of property or the award of support "is inequitable ... due to the nondisclosure or other misconduct of one of the parties." *(Family Code §* 2120, subd. (b).) The Legislative findings and declarations promulgated in connection with these provisions (Stats. 1993, ch. 219, § 108) state that "[t]he public policy of assuring finality of judgments must be balanced against the public interest in ensuring proper

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division of marital property, in ensuring sufficient support awards, and in deterring misconduct." (§ 2120, subd. (c).) [8] To this end, section 2121, subdivision (a), provides: "In proceedings for dissolution of marriage, for nullity of marriage, or for legal separation of the parties, the court may, on any terms that may be just, relieve a spouse from a judgment, or any part or parts thereof, adjudicating support or division of property, after the six-month time limit of Section 473 of the Code of Civil Procedure

has run, based on the grounds, and within the time limits, provided in this chapter."

Section 2122 sets out the exclusive grounds and time limits for an action or motion to set aside a marital dissolution judgment. Under this section, any action or motion to set aside such a judgment must be based on actual fraud, perjury, duress, mental incapacity, or mistake. Although the party seeking to set aside a dissolution judgment must also establish that the presence of at least one of these five grounds for relief "materially affected the original outcome" and that he or she "would materially benefit from the granting of the relief" (§ 2121, subd. (b)), the fact the judgment may have been inequitable to the moving party cannot by itself serve as a basis for setting aside that judgment. As stated by section 2123: "Notwithstanding any other provision of this chapter, or any other law, a judgment may not be set aside simply because the court finds that it was inequitable when made,

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nor simply because subsequent circumstances caused the division of assets or liabilities to become inequitable, or the support to become inadequate."

For judgments that became final on or after January 1, 2002, Family Code section 2122, subdivisions (a) and (b) have been amended, and a new subdivision (f) has been added covering failure to

comply with financial disclosure requirements. (Stats. 2001, ch. 703, §§ 7, 8.) The statute which applies to the Roos' Judgment of Dissolution, entered in 2004, reads as follows:

§ 2122.

"The grounds and time limits for a motion to set aside a judgment, or any part or parts thereof, are governed by this section and shall be one of the following:

(a) Actual fraud where the defrauded party was kept in ignorance or in some other manner was fraudulently prevented from fully participating in the proceeding. An action or motion based on fraud shall be brought within one year after the date on which the complaining party either did discover, or should have discovered, the fraud.

Perjury. An action or motion based on perjury in the preliminary or final declaration of

(b) disclosure, the waiver of the final declaration of disclosure, or in the current income and expense statement shall be brought within one year after the date on which the complaining party either did discover, or should have discovered, the perjury.

(c) Duress. An action or motion based upon duress shall be brought within two years after the date of entry of judgment.

(d) Mental incapacity. An action or motion based on mental

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incapacity shall be brought within two years after the date of entry of judgment.

(e) As to stipulated or uncontested judgments or that part of a judgment stipulated to by the parties, mistake, either mutual or unilateral, whether mistake of law or mistake of fact. An action or motion based on mistake shall be brought within one year after the date of entry of judgment.

(1) Failure to comply with the disclosure requirements of Chapter 9 (commencing with Section 2100). An action or motion based on failure to comply with the disclosure requirements shall be brought within one year after the date on which the complaining party either discovered, or should have discovered, the failure to comply."

(Family Code §2122.)

Thus, in order to set aside the judgment in this case, Ms. ROOS was required to establish one of the grounds specifically enumerated in section 2122, and that she would materially benefit from the granting of relief. Both here and in the trial court, she has argued that the judgment should be set aside on grounds of the Respondent's failure to disclose assets, perjury, and actual fraud. (AA 45.)

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In her Argument, Ms. ROOS maintains that the Court erred because as the trier of fact it failed to recognize the "substantial evidence to support a finding to grant a set aside of Judgment dated 6-04-04 and... [that]...LORNA had met the necessary elements for relief under *Family Code* sections 2120-2129.) (AA 45.)

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To Meet the Abuse of Discretion Standard Upon Appellate Review, the Appellant Must Show That the Trial Court Could Not Reasonably Have Found for the Respondent, or That the Trial Court Made Erroneous Findings or Application of the Law.

Generally, where a trial court has discretionary power to decide an issue, an appellate court is not authorized to substitute its judgment of the proper decision for that of the trial judge. The trial court's exercise of discretion will not be disturbed on appeal in the absence of a clear showing of abuse, resulting in injury sufficiently grave as to amount to a manifest miscarriage of justice. *(Blank v. Kirwan* (1985) 39 Ca1.3d 311, 331; *Jessup Farms v. Baldwin* (1983) 33 Cal.3d 639, 650-651, fn. *7; San Bernardino City Unified School Dist. v . Superior Court* (1987) 190 Cal.App.3d 233, 241; *Brown v . Newby* (1940) 39 Cal.App.2d 615, 618; 9 Witkin, Cal. Procedure (4th ed. 1997) Appeal,

§ 356, pp. 404-405.) "'The appropriate test for abuse of discretion is whether the trial court exceeded the bounds of reason. When two or more inferences can reasonably be deduced from the facts, the reviewing court has no authority to substitute its decision for that of the trial court.' " *(Walker v. Superior Court* (1991) 53 Cal.3d 257, 272;
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Shamblin v. Brattain (1988) 44 Ca1.3d 474, 478-479; Eisenberg et al., Cal. Practice Guide: Civil Appeals and Writs (The Rutter Group 1995)111 8:87-8:87.1.)

The burden is on the complaining party to establish abuse of discretion. *(Blank v. Kirwan,* supra, 39 Ca1.3d at p. 331; *Denham v. Superior Court* (1970) 2 Ca1.3d 557, 566.) The showing on appeal is insufficient if it presents a state of facts which simply affords an opportunity for a difference of opinion. *(In re Marriage of Varner* (1997) 55 Ca1.App.4th 128, 138; *People v. Stewart* (1985) 171 Cal.App.3d 59, 65.)

Of course, the discretion of a trial court is not an uncontrolled power. A proper exercise of judicial discretion requires the exercise of discriminating judgment within the bounds of reason, and an absence of arbitrary determination, capricious disposition, or whimsical thinking. A court must know and consider all the material facts and legal principles essential to

an informed, intelligent, and just decision in the particular case before it. *(Carroll v. Abbott Laboratories, Inc.* (1982) 32 Cal.3d 892, 897; *People v. Giminez* (1975) 14 Cal.3d 68, 72; *In re Cortez* (1971) 6 Ca1.3d 78, 85-86; *Gossman v . Gossman* (1942) 52 Cal.App.2d 184, 195; 9 Witkin, Cal. Procedure, supra, Appeal, § 358, pp. 406-408.) "Discretion is abused in the legal sense "whenever it may be fairly said that in its exercise the court

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... contravened the uncontradicted evidence." ' [Citations.]" *(Salowitz Organization, Inc. v. Traditional Industries, Inc.* (1990) 219 Cal.App.3d 797, 806.)

2 LORNA ROOS Fails to Show an Abuse of Discretion in the Denial of her Motion to Set Aside the Judgment in the Trial Court's Decision of 2004, and Offers No Evidence of Erroneous or Invalid Decision Making by the Court, Which is the Basis of her Argument.

In her Argument, Appellant LORNA ROOS fails to establish that the Trial Court abused its discretion in any way. What she does attempt to do is relitigate the case, or have "another bite of the apple," recycling the same arguments, in the same format, which were already heard and considered by the lower court. This she cannot do at the appellate

stage, or expect a reviewing court to consider.

For example, Ms. ROOS repeatedly argues that the Court should have granted her Motion to Set Aside Judgment based on the evidence proferred, in the main areas cited hereinbelow.

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a Appellant Failed to Establish That There was Any Use of the Roos Family Trust to Drain Community Assets from Her Marriage to Respondent MICHAEL ROOS.

One of Appellant's arguments is that the Roos Family Trust, established by Respondent's parents shortly before Mr. ROOS' father passed away, was a "sham" which MICHAEL ROOS, the Respondent, fraudulently established with his mother, in order to use as a means to drain community assets from the marriage. (AOB 26[3], AA 66-74.) Appellant based her *Motion to Set Aside Judgment* largely around the theory that the Respondent falsified his father's signature on the Living Trust and "back dated" it so as to establish that it was written, not by the elder, but by the younger Mr. ROOS. In fact, this was the only argument, brought five years after the entry of Judgment in the case, which would not be barred by the Statute of Limitations as promulgated in

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Family Code §2122. (AA 51.)

However, Appellant offered nothing but speculation as to how or why this effort was made. It appears that her newfound belief was that the trust was entered into fraudulently by Respondent MICHAEL ROOS and his mother, not the elder Mrs. Roos and her husband. This theory was [3]'AOB' shall refer where necessary to Appellant's Opening Brief, following by the relevant page number.

[19]considered by the lower court at the time Appellant's *Motion to Set Aside Judgment,* and was denied by the finder of fact, as once again Appellant had failed to show sufficient evidence for yet another inflammatory and specious theory she laid before the court. (AA 176-180.) In addition, Ms. ROOS' s other repetitive and redundant theories, such as duplicitous real estate deals, straw man transactions through the use of influential intermediaries, and draining assets from the community were recycled yet again. (AA 721-725.) However, most of these theories were considered by the court at the time of trial, and so were considered yet again at the time of Petitioner's *Motion to Set Aside Judgment.*

In addition, a breach of fiduciary duty amongst spouses has a three year statute of limitations from when actual knowledge of the breach occurs.

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§ 1101.

(a) A spouse has a claim against the other spouse for any breach of the fiduciary duty that results in impairment to the claimant spouse's present undivided one-half interest in the community estate, including, but not limited to, a single transaction or a a pattern or series of transactions, which transaction or transactions have caused or will cause a detrimental impact to the claimant spouse's undivided one-half interest in the community estate.

"(d) (1) Except as provided in paragraph (2),

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any action under subdivision (a) shall be commenced within three years of the date a petitioning spouse had actual knowledge that the transaction or event for which the remedy is being sought occurred."

(Family Code §1101.)

It is therefore evident that Appellant's *Motion to Set Aside Judgment* was an attempt to raise old issues anew, hopefully to avoid conceding that her arguments could no longer be considered at the trial level, either because they had been raised and denied by the court for lack of evidence, or because the Statute of Limitations regarding Breach of Fiduciary Duty would bar their being raised at all.

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The one theory which was not floated at the time of trial, but surfaced, ostensibly because of "new evidence" in her *Motion to Set Aside Judgment,* was Appellant's contention regarding the Roos Family Trust. The sole evidence proffered by Appellant at the trial level was that the Roos Family Trust must be a sham, because in 1996, Respondent's mother, Malissa Roos, wrote a Last Will and Testament, revoking all former Wills. (AA 68.) In her Will, signed and witnessed on June 13, 1996 (AA 78), the elder Ms. Roos declares that "All inheritance and estate taxes...shall be paid out of the principal of the...ROOS FAMILY LIVING TRUST established earlier this day and bearing the same date as this Will..." (AA 84.)

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However, there was no evidence whatsoever that the now deceased Malissa Roos did not establish the Roos Family Living Trust on the same date as her Last Will and Testament. A Living Trust is not a document filed for public purview, such as a Last Will and Testament filed during Probate. Appellant's theory that the Living Trust must have been back dated and then put in place (she alleges this was done actually on two separate occasions) was something which the lower court considered during Ms. ROOS' Motion to Set Aside, and for which the lower court found Ms. ROOS' evidence lacking.

Quite clearly, the "evidence of a sham replacement of any original fraudulent trust documents" did not meet the burden necessary, nor does it rise to the level necessary at this later juncture where the burden is even higher. (AA 68.)

b Appellant LORNA ROOS Also Failed to Explain Why the Kenilworth Ave. Home Should Not have Been Valued as of the 2002 Date, or Why It Was Undervalued, Either at Trial or in her Motion to Set Aside.

Another of Appellant's major arguments in her Motion to Set Aside was that the family dwelling was undervalued, and that she was fraudulently denied her proper share of community interest in the home on

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Kenilworth Ave. According to the Judgment, the house was valued as of February 2002. In her Motion to Set Aside, and again, in her Opening Brief, Appellant opines that she feels the home was undervalued but offers no evidence to support her claim. She also claims that the subsequent sale of the home for $1,299,000, after the trial concluded was evidence, in and of itself, that the Respondent had deliberately concealed the true value of the home from her. (AA 64.) But, as mentioned above, the fact that the division may have been unequal does not itself mean that the division was fraudulent. In addition, the house was sold almost three years

after its valuation date in early 2002 at the time of trial and the date on which testimony in the case was closed. (AA 536.) The house sold late in 2004, during a period of boom times in the real estate market. (AA 517.) Although today such times seem long past, it is well settled that the period from 2001 up until late 2007 was a boom unlike that ever seen in prior years in the real estate market, perhaps fueled by over aggressive lenders and mortgage speculators, whose mortgage offerings and loan products later came to be termed "toxic assets." In any event, the evidence of the home's value was submitted to the Trial Court at the time of Trial, Appellant (then Petitioner) had the chance to object and be heard based on her own valuation of the home, and the finder of fact ruled accordingly.

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c There Was No Evidence, Either at Trial or in her Motion to Set Aside the Judgment, That Appellant LORNA ROOS Was Denied Access to the Discovery Process During Any Part of the Proceedings.

Moreover, such conjecture goes directly to Appellant's third major contention; that is, that she was denied use of the discovery process during Trial. For example, she states in her original Motion's Declaration "It is a crime that this court did not allow Petitioner discovery when the presented third

party information from subpoenas was supporting Petitioners alleged claims not Respondents. How could this court not allow proper discovery and award Respondent every single asset in dispute based on fraud, malice, and oppression." (AA 50.) However, aside from that reference, Ms. ROOS fails to state if, how or why the Trial Court "denied" her the right to discovery. But such is only conjecture and speculation, as Ms. ROOS offers no evidence as to how or why she was denied "use of the discovery process."

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d Appellant LORNA ROOS Falsely States that Respondent Failed to Respond to Her Efforts to Set Aside the Judgment, When in Fact, Respondent Was Busy Responding on Several Different Levels to the Flurry of Activity Generated by then Petitioner LORNA ROOS at the Trial Level.

Finally, Ms. ROOS' argument makes the point that Respondent's attorneys, the Law and Mediation Offices of Goodman and Metz, offered "no responses to the many crimes outlined in the case overview filed with the Court on October 28th, 2008," regarding the Motion to Set Aside, in Ms. ROOS' original Ex Parte Application attempting to freeze Respondent's assets. (AA 1270.) However, Respondent is at a loss to explain such a statement. Respondent filed a *Responsive Declaration to Order*

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to Show Cause or Notice of Motion, which was filed and made part of the Record on Appeal. (AA 1145.) Respondent also filed *Objections and Request to Strike Portions of Declaration of Petitioner LORNA ROOS in Support of Motion to Set Aside Judgment Entered on July 4, 2004,* which was also made part of the Record on Appeal. (AA 1150.) The actual rulings on the *Objections* are not part of the Record on Appeal, but if even some of the

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Objections were sustained on grounds raised by Respondent such as opinion, conclusion, speculation, lack of foundation, and relevance, nearly all if not all of then Petitioner LORNA ROOS' *Declaration* would have been stricken entirely. Moreover, Respondent also filed a *Motion to Quash* four (4) Subpoenas Duces Tecum which then Petitioner LORNA ROOS had filed in an attempt to obtain financial infoimation which she had already been denied in four (4) identical Subpoenas Duces Tecum. (AA 1172, 1176.) So Respondent was hardly silent regarding the actions of LORNA ROOS in her attempts to set the Judgment aside.

Still, even if Respondent had filed nothing in response to then Petitioner LORNA ROOS' efforts to set the Judgment aside, a lack of response is not the same as a finding of default, and the trier of fact still held a hearing on the Motion to Set Aside Judgment, during which Judge Diaz found that Ms.

ROOS had failed to meet her burden of evidence in her attempts to rewrite the Dissolution's history. (AA 1282:14-28.) Because of Ms. ROOS' obstreperous behavior during the hearing, there was little opportunity for the Court to list any specific reasons why the Motion was denied, other than to say Ms. ROOS lacked proof on which to set any portion of the Judgment aside. (AA 1283.)

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3 To Conclude, Appellant LORNA ROOS Cannot

Have a Second (or Third) Bite of the Apple at the Juncture of this Appeal; She Has Been Heard, and Heard Again, and Her Current Appeal Offers no Evidence that the Trial Court Abused its Discretion in Any Way.

Finally, even at Trial, the Court was solicitous enough of then Petitioner LORNA ROOS to posit that she was sincere in her belief that she had been defrauded during the Trial. (AA 1282:21-25.) But the Court's patience was exasperated by Ms. ROOS' relentless dogma and abrasive parading of her inflammatory accusations, not only towards Mr. ROOS, but towards the Court, the legal system, and the entire judicial process. (AA 1285-1287.)

Ms. ROOS may not have yet run out of steam, but her recycling of the same arguments over and over does nothing to establish her claims, long since

exhausted, nor does it mean the standard of Judicial Review to show that there was any abuse of discretion by the Court, at any time, during the matter presented.

And so, Appellant LORNA ROOS must be denied all relief, and the lower Court's decision to deny the Motion to Set Aside Judgment, must be 27

affirmed in its entirety.

B. Appellant LORNA ROOS Fails to Identify With Any Clarity What, if Any, Support Orders Are Being Appealed; It Appears that all Orders relating to either Child Support or Spousal Support Cannot be Appealed at this Time, as to Do So Would Be Untimely; or It May Be That Appellant was Merely Adding Additional Arguments to Her Request to Reverse the Lower Court's Decision in Denying Her Motion to Set Aside the Judgment, Because She Assumed the Orders Concerning Support Made Contemporaneously with the Judgment Itself, Would be Set Aside as Well.

In Appellant's Opening Brief, Appellant LORNA ROOS offers as a second major argument that this reviewing court must decide "whether the Trial Court abused its discretion on Support Orders." (AOB 49.) However, it is unclear what specific orders are being appealed in Appellant's Opening Brief. By way of explanation, Appellant states:

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"Respondent never filed for appeal on the District Attorneys [sic] case on arrearages instead Respondent got the arrearages case transferred to Judge Black whereby Judge Black issued fraudulent credits in amount of $924,000, $185,000, $20,000, and page school credit

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which was in direct violation of Family Code 174400 (a) and (e)."

(AOB 50.)

Appellant LORNA ROOS fails to identify when such orders were indeed issued, fails to include any references to either her own Appellant's Appendix, or a Court Reporter's Transcript, and fails to specify with any clarify whatsoever what was improper regarding the orders. It appears that Ms. ROOS is claiming that Respondent was given credit for payments made to third parties, in her words "other than directly to the Custodial Parent or the Court Trustee." Appellant also states that "the Court must consider all support payments to any third parties as gifts," without any authority whatsoever. (AOB 50.)

It would appear from Appellant's argument that she is objecting yet again to the Audits which were performed over the past several years by the Child Support Services Department (CSSD). The results (or at least, their statements that they stand behind the results) of at least two of the Audits are

contained in Appellant's Appendix, in which CSSD states as follows:

"We reviewed both audits conducted in October 2006 and November 2007 with our staff attorney. It is determined that our last audit, based on the court orders filed in April 2004 and October 2007, is accurate. We mailed you the copies of the Audit Summary

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and Simple Report on January 29, 2008, for review."

(Letter from County of Los Angeles, Child Support Services Department, dated February 22, 2008.) (AA 576.) [Emphasis in original.]

So it would appear that if Appellant is referring back to matters which took place at the Trial in 2004 relating to adjudication of Child and/or Spousal Support Arrears, those matters were already investigated, followed up on, audited (at least twice) and reported on (at least three times) to the Appellant LORNA ROOS. According to the letter from CSSD, audits took place in October 2006 and November 2007, and they reviewed the audits again and reported on them on February 22, 2008. (AA 576.)

For Ms. ROOS to be raising these issues yet again appears to be yet another "bite of the apple," without anything more substantial behind it, and indicates more Appellant's dissatisfaction with the answers

she's been given, rather than any erroneous application of law or fact either at the Trial Court level or by CSSD Attorneys.

The Record also contains no evidence of any "retroactive modification" of support which is referred to repeatedly throughout the AOB. There was, as is often the case, a *temporary* modification of Spousal Support which took place on April 1, 2004, and was later modified (upwards, from $7,500, per month, to $10,000, per month) just a few weeks

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later, on April 14, 2004. (AA 542.) The April 14, 2004, Minute Order also included a prospective step-down in Spousal Support from $10,000, per month, to $8,000, per month, effective May 1, 2006. (AA 542.)

Child Support was unmodified between the *pendente lite* order of April 1, 2004, and the permanent order of April 14, 2004. (AA 542.)

Ms. ROOS objects in her AOB that Mr. ROOS received credits for half the tuition of the Page School, which the children attended. But these were not identified as a retroactive modification of support, they were part of the calculation used to reach an Equalization of the Parties' different financial bases at the time of Trial. (AA 535.) It is also true that Petitioner received certain credits, including credit for payment from the community which went towards the tuition for Mr. ROOS' older children (not children of the marriage), which were

detailed in the Judgment of April 2004. (AA526.) So decisions were made by the Trial Court which benefitted both sides, as the trier of fact must do.

For Ms. ROOS to raise these objections now, regarding Audits which were performed repeatedly in 2006, again in 2007, and reported on; for her to raise issues regarding the Equalization to the Court of Appeal after her Motion to Set Aside Judgment was already denied, is Ms. ROOS expressing her dissatisfaction with the result, not pointing to any errors in

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law, any mistakes of the Trial Court, or any abuse of discretion which took place. The abuse of discretion referred to, again and again, by Ms. ROOS is that simply the Judge at the trial level did not agree with her theories in toto, or perhaps, even in part. But Ms. ROOS cannot convince a reviewing Court to now agree with her, when the Trial Court had the full vista of evidence, witnesses, testimony, documentation, CSSD, and other facts with which it made its sound decisions.

B. **The Judge Had the Opportunity to Determine the** Credibility of the Parties and the Witnesses at Trial, And **LORNA ROOS's Written Testimony Is Riddled with** Various Conspiracy Theories, Inflammatory Language, and 'Over the Top' Pronouncements that Everyone in

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the Los Angeles Superior Court is Siding Against Her

Because of Respondent's Alleged Influence with the Court.

The appellate court should defer to the trial judge's or jury's resolution of fact issues because the Judge or Jury alone have had the benefit of observing the demeanor of witnesses and are therefore in a better position than the appellate court to assess credibility. The testimony of witnesses given on direct examination is afforded significant weight at trial in ascertaining their credibility; cross-examination does not provide the sole

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evidence relevant to the weight to be accorded their testimony. *(Elkins v. Superior Court* (2007) 41 Ca1.4th 1337, 1358.) In addition, the *Elkins* court goes on to state that:

"Oral testimony of witnesses given in the presence of the trier of fact is valued for its probative worth on the issue of credibility, because such testimony affords the trier of fact an opportunity to observe the demeanor of witnesses. [Citation.] A witness's demeanor is "part of the evidence" and is "of considerable legal consequence." (citing *People v. Adams* (1993) 19 Cal.App.4th 412, 438.)

And, further:

"[0]ne who sees, hears and observes [a witness] may be convinced of his honesty, his integrity, [and] his

reliability . . . because a great deal of that highly delicate process we call evaluating the credibility of a witness is based on .. . `intuition' "].)

(Elkins v. Superior Court, supra, citing Meiner v. Ford Motor Co. (1971) 17 Cal.App.3d 127.)

In addition, to the extent the trial court weighed conflicting evidence and assessed credibility in rejecting the purportedly new factual basis for Appellant's claims of newfound "evidence" which she hoped would justify her motion to set aside the judgment, the reviewing court must defer to the trial court's findings. *(Niko v. Foreman* (2006) 144 Cal.App.4th 344, 365.) "On review, all conflicts in the evidence are drawn in favor of the

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judgment.. [Citation.] We may not reweigh the evidence or determine credibility." *(In re Marriage of Friedman* (2002) 100 Cal.App.4th 65, 7 ; also see *In re Marriage of Meegan* (1992) 11 Cal.App.4th 156, 162 [credibility within trial court's discretion, criticized on other grounds].)

For there to be an abuse of discretion by the trial court in denying Appellant's motion to set aside the judgment of 2004, a reviewing court's review is limited to the trial court's findings of fact to determine whether they are supported by substantial evidence.

An appellant contending some particular finding is

not supported must set forth in his or her brief a summary of the material evidence upon that issue, and, if that is not done, the error is waived. *(In re Marriage of Fink* (1979) 25 Ca1.3d 877, 887.) "'It is incumbent upon appellants to state fully, with transcript references, the evidence which is claimed to be insufficient to support the findings.' [Citations.]" (Ibid.) This Appellant has failed to do. She cites no law of any kind in her argument, she simply recycles the same arguments from the lower court's proceedings.

Further, in applying the substantial evidence test, a reviewing court views the record in the light most favorable to the prevailing party and will resolve all evidentiary conflicts and indulge all reasonable inferences in support of the judgment. *(Marriage of Mix* (1975) 14 Ca1.3d 604, 614.)

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"We look to the entire record to determine whether there is substantial evidence, contradicted or uncontradicted, which will support the determination of the trial court." *(Bowers v. Bernards* (1984) 150 Cal.App.3d 870, 873-874.) "Where such evidence is present, we defer to the trial judge's factual determinations and have no power to substitute our own deductions." *(Rupf v. Yan* (2000) 85 Cal.App.4th 411, 429-430, fn. 5.) "The rule applies equally to court and jury trials and to the assessment of lay and expert testimony." *(Ortzman*

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v. Van Der Waal (1952) 114 Cal.App.2d 167, 170.)

Deference is Given to the Trial Court's Findings of Fact.

As mentioned above, the appellate court should defer to the trial judge's or jury's resolution of fact issues because the Judge alone had the benefit of observing the demeanor of witnesses and are therefore in a better position than the appellate court to assess credibility.

At the trial below, testimony was heard from the witnesses and in addition, the Parties had the opportunity to submit written testimony, likely due to the elongated nature of the proceedings. Both Parties took advantage of this opportunity and submitted additional testimony.

Even if there are conflicts which appear from Appellant at this time, and inferences which may conflict with each other when raised to the reviewing Court, under the conflicting inference rule, the appellate court must indulge all reasonable infer-

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ences that may be deduced from the facts in support of the party who prevailed in the proceedings below. *Kuhn v. Department of General Services* (1994) 22 Cal.App.4th 1627, 1632-1633. Even if the facts were admitted or uncontradicted, the appellate court will not substitute its deductions for the inferences actually or presumptively drawn by the trial court.

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Mah See v. North American Acc.Ins.Co. (1923) 190 Cal. 421 426.

After considering the findings of fact made by the trial court, the abuse of discretion standard measures whether given the established evidence, the lower court's action falls within the permissible range of options set by the legal criteria. *Dorman v. DWLC Corp.* (1995) 35 Cal.App.4th 1808, 1815.

Appellant has the burden of proof to show that the trial court abused its discretion in that there was not substantial evidence to support the decision. As discussed throughout Respondent's Brief, Appellant has failed to meet this burden because Appellant has failed to show why the trial court's decision is not within the permissible range of legal options. Conspiracy theories, allegations that the Respondent has manipulated the legal system as well as falsified testamentary documents, and even bold faced accusations that the Judge at trial was a criminal, are colorful and

arresting in terms of language, but fall flat when any sort of legal criteria is attempted to be applied to them.

It is clear that Appellant LORNA ROOS continues to be a serial accuser and a system abuser.

CONCLUSION.

For these reasons heretofore given,

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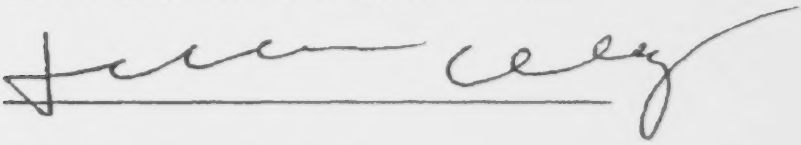
Respondent MICHAEL ROOS prays that the lower court's decision be affirmed in full.



Respectfully submitted,
Dated JORDON METZ, Esq.
Attorney for Respondent MICHAEL ROOS

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DECLARATION OF KENNETH R. NAHIGIAN.

1. I am an attorney, duly licensed to practice law in all the Courts of the State of California. I worked on the *Respondent's Brief* under the supervision of the attorney of record, Jordon Metz, Esq., in the above mentioned matter.

2. I hereby certify under penalty of perjury, pursuant to Rule 14(c)(1) of the California Rules of Court, the enclosed brief of Appellant is produced using 13-point roman type and

contains approximately 7,745, words.

KENNETH R. NAHIGIAN, Esq.
LAW OFFICES OF GOODMAN & METZ /
Attorneys or ' Respondent MICHAEL ROOS

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Appendix L

IN THE COURT OF APPEALS OF THE STATE OF CALIFORNIA SECOND APPELLATE DISTRICT, DIVISION

Lorna Roos,)	
Plaintiff and Appellant)	Appeals # B216438
v.)	Superior Court #BD202859
)	
Michael Y. Roos,)	
Respondent)	
)	

APPELLANT'S REPLY BRIEF
FILED 1-11-10

Lorna Roos In Pro Per
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Santa Barbara, CA. 93108
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ARGUMENT

I) Whether the trial court abused its discretion to deny a motion to set aside the judgment dated 6-4-04 and attorney fees Appellant believes the trial court erred in denying Appellant's motion to set aside Judgment dated 6-4-04 including all support orders and attorney fees on 4-27-09 and erred in denying a freezing order on 4-27-09 as the recently discovered new evidence revealed community, quasi-community, and separate property assets were indeed never disclosed by Respondent during the divorce and these assets still need to be adjudicated. (AA 45-165) Appellant filed to have the judgment from 6-4-04 in the divorce set aside on 9-29-08 due to the newly discovered evidence revealing Respondent's failure to disclose assets, failure to disclose his true income, fraud, perjury and misrepresentation of material facts. (AA 45-165) Respondent was able to secure a fraudulent judgment in the divorce whereby Respondent was awarded every single asset in dispute because of Respondent's false portrayal of having a rich mother. (AA 175) Appellant was never allowed discovery during the trial before both Judge Black and or Judge Diaz and was never given any funds for an attorney. (AA 175-193, AA 1275-1296)

The Judgments of 6/4/2004 and 4/27/2009 are the product of abuse of discretion and misconduct by Judge Black , Judge Diaz, Respondent's attorney's, and Respondent in that they deliberately kept Appellant broke, allocated no money for an attorney,

denied discovery, granted false credits on support orders to keep Appellant broke, allowed no enforcement on Respondent to turn over any tax records when subpoenaed to do so (AA 175-1144) (tax returns would have easily exposed the concealment of assets and material facts much sooner), created unnecessary delays, failed to hear In-Contempt charges filed by Appellant to compel discovery of tax records, issued inappropriate motions to quash, suppressed key documents during discovery to hide the true source of funds, and criminal behavior of others(AA 1275-1296) (Judge Black wrongly sealed subpoena on a asset in dispute regarding a suspicious check for $531,561 that was to be adjudicated). (AA 384-390) Judge Black and Judge Diaz made judgments that were a product of judicial misconduct and perjury by Respondent in that Respondent lied about material facts during depositions and trial. (AA 175-1144) Appellant is entitled to a trial on the grounds of newly- discovered evidence in that the facts were wrongfully withheld by the court, Respondent, and Respondent's attorney during discovery and at trial would have changed the outcome of the trial.(AA 45-165) Appellant wants the judgment from 6-4-2004 to be set aside and asks the court of appeals to grant the appropriate sanctions regarding Respondent's concealment of assets, fraud, perjury committed on all income and expense declarations regarding all support orders, perjury committed on final financial disclosure,

concealment and fraudulent portrayal of material facts, failure to adhere to the rules of the court, appellate procedure, and the laws of the state of California.(AA 45-165)

Nothing in Respondent's Reply Brief changes the conclusion that a gross miscarriage of justice occurred in the trial court as a result of Judge Diaz's & Judge Black's judicial misconduct and Respondent's failure to disclose assets, failure to disclose true income, and material facts.(RRB 1-37) Appellant notified the court immediately of the newly discovered evidence revealing Respondent had committed perjury, kept material facts concealed, and failed to disclose all assets on his final financial disclosure to the court , which should have included (AA 63-165) ; the sale of the family home (AA 76), The Roos Family Living Trust to include 20 shares of Commerce Casino Card Club (Held 10 shares in the name of Melissa Walker and 10-shares in the name of Mike Roos)(AA 87-125), EIN# 33-6088274 Exempted trust (AA 136), ownership of Commerce Casino(AA 121), income from Commerce Casino(AA 204-225), ownership of joint tenancy accounts totaling $1,500,000 in assets as stated by Respondent in Respondents mother probate file (AA 315-21), ownership Stone & Youngberg (AA 43), income from Stone & Youngberg (AA 43), Mike Roos & Company (AA 17), true income from Mike Roos & Company (AA 17), ownership Iroquois property joint tenancy acct. listed in mothers probate file,

prudential account held joint tenancy acct. listed in mothers probate file, life insurance policy held as special co-trustor never disclosed. (AA 45-165, AA 175-1144) Appellant filed a motion to have the Judgment from 6-4-04 set aside on 9-29-08. (AA 45-165)

Even if the Appellate court was to consider Respondent's new claim of statute of limitations new issue raised by Respondent, which was never raised in the lower court, and is not part of record on appeal. (RRB 1-37) Appellant's motion would still fall within the guidelines where no statute of limitations would apply to this case because Appellant filed within six months of learning and discovering of fraud, perjury, concealment of assets, and concealment of income by Respondent. (AA 45-1144)

The Court of Appeal reversed in *Rubenstein v. Rubenstein* (2000) 81 Cal.App.4th 1131, holding that the action was timely because it was brought within a year of the date that Arteena Rubenstein discovered, or should have discovered, the facts upon which her claim of fraud or perjury was based.

The set aside motion was filed within six months of discovering new evidence from subpoenaed information on 4-1-08 which revealed Respondent had concealed assets, concealed income, material facts, committed fraud, and perjury on all financial disclosures in the divorce. (AA 45-165)

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Family Code Section 2122 states: The grounds and time limits for a motion to set aside a judgment, or any part or parts thereof, are governed by this section and shall be one of the following:

(a) Actual fraud where the defrauded party was kept in ignorance or in some other manner was fraudulently prevented from fully participating in the proceedings. An action or motion based on fraud shall be brought within one year after the date on which the complaining party either did discover, or should have discovered, the fraud.

(b) Perjury. An action or motion based on perjury in the preliminary or final declaration of disclosure, the waiver of the final declaration of disclosure, or in the current income and expense statement shall be brought within one year after the date on which the complaining party either did discover, or should have discovered, the perjury.

(c) , (d), (e)

(f) Failure to comply with the disclosure requirements of Chapter 9 (commencing with Section 2100). An action or motion based on failure to comply with the disclosure requirements shall be brought within one year after the date on which the complaining party either discovered, or should have discovered, the failure to comply.

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A.) RESPONDENT DOESN'T ADHERE TO THE RULES OF THE COURT AND OR APPELLATE PROCEDURE

Respondent's Reply Brief attempts to claim Statue of Limitations must apply but Respondent never raised any issues regarding Statue of Limitations before the lower court.(AA 1145-1149, RRB 8-9) Appellant discovered new evidence on 4-1-08, which revealed Respondent's non-disclosure of assets non disclosure of his true income. (AA 45-165) Appellant immediately filed a motion to set aside judgment dated 6-4-04 on 9-29-08 including all support orders. (AA 45-165) The new evidence showed Respondent had failed to fully disclose assets, to fully disclose his true income, committed fraud, and perjury in obtaining the divorce judgment dated 6-4-04 and support orders in this divorce case. (AA 45-1144)

The most important issues of this appeal have been Respondents lack of full disclosure regarding assets, concealment of income, concealment of assets, and his fraudulent creation of the Roos Family Living Trust during the marriage in order to embezzle marital assets and ill gotten gains/ income (and embezzlement of separate property of Lorna Roos and Leslie Stevenson Reilly). (AA 175-1144) Respondent's Reply Brief fails to address his lack of disclosure of the Roos Family Living Trust including the Exempted Trust (Respondent concealed he was a

trustee at the time of the divorce) and the suspicious check for $531,561. (RRB 1-37) Respondent fails to address his fraudulent statements to the court regarding his income and expense declarations (Respondent concealed the trust income), his final financial disclosure, and misrepresentation of material facts regarding the true value of the family home that Respondent sold for $1,299,000 (within days after the Judgment was rendered) versus his fraudulent representation to the court of a value of $650,000. (RRB 1-37)

Respondent never told Appellant and or the children he was planning on selling the family home. (AA 58) Respondent had no custody of the children so Respondent was able to conceal the sale for many years by selling the home to a private trust (record of sale was not recorded until years later) (AA 514-517), by mailing the children cards with the family home address listed as his return address (AA 518-522), and by never informing the Court of his change of address, which was against a court order. (AA 175-193) For the record, there was no appraisal done on the family home because Respondent and Judge Black refused to allocate money for the appraisal, left Appellant financially destitute, refused to give Appellant any money for an attorney, and or Court costs, when the Court knew or should have known Respondent was financially abusing Appellant. (AA 175-193)

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Rather than attempt to explain his fraudulent behavior of concealing material facts like the listing and subsequent sale of the family home during the divorce trial, and on this appeal, instead, Respondent in Respondent's Reply Brief attempts to divert the attention of the Court away with some explanation regarding a supposed value in 2002 when the record does not reflect any ruling to this effect as the property value issues were still being litigated at trial on April 2nd 2004 as clearly stated by Respondent in Respondent's own response declaration filed with the Court on 10-14-08 to the set aside motion filed by Appellant on 9-29-08. (AA 1147) Now, Respondent's Reply Brief introduces new issues such as statute of limitations and other irrelevant issues that are outside the record and were never raised before the lower court. (RRB 1-37)

B.) ORDERS BEING APPEALED BY APPELLANT

Respondent's Reply Brief alleges that it is not clear what orders are being appealed. (RRB 28) Appellant is appealing all orders that were made by Judge Diaz on 4-27-09, which includes the denial of the motion to set aside Judgment dated 6-4-04 and attorney fees (Appellant is appealing all the support orders issued on the Judgment of 6-4-04 including all other support orders issued on this divorce case as Respondent committed fraud and perjury on all income and expense declarations filed with Court),

the denial of the freezing order, and the granting of the motion to quash for Respondent. (AA 1297-1326) Appellant asks the Court to retroactively modify all support orders because of Respondents non disclosure and concealment of assets that includes trust income and non disclosure on his true business income as it relates to the production of income that should have been calculated on all child support and spousal support orders as stated in Appellant's original OSC filed to set aside Judgment of 6-4-04 filed on 9-29-08 (AA 45-1144), which was wrongly denied by Judge Diaz on 4-27-09. (AA 1277-1291) As Respondent lied about being a trust beneficiary on The Roos Family Living Trust, intentionally concealed the trust & trust income, lied about his true income received on Mike Roos & Company, lied about his true income received by Stone & Youngberg, and failed to make proper financial disclosure at the time support orders were calculated in 1994 and at the time of the divorce in 2004 as was required by the disclosure statute. (AA 45-1144) Appellant asks the Court of Appeals in Appellant's Brief that all support orders be retroactively modified due to the non disclosure of income (the income from the non disclosed trusts) as it was never calculated in the child and spousal support orders. (AOB 56)

(All support orders from dates 11/15/1994 LOS ANGELES BD0202859 HISTORIC 12/05/2000 (Appellant has never seen this order and The

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Department of Children Family Services has never supplied Appellant with a copy of this order from 12-05-2000, refuses to do so, and Appellant believes it will reveal more fraud) LOS ANGELES BD0202859 HISTORIC 04/02/2004 LOS ANGELES BD0202859 HISTORIC 04/14/2004 LOS ANGELES BD0202859 HISTORIC 06/04/2004 LOS ANGELES BD0202859 HISTORIC 10/03/2007 LOS ANGELES BD0202859 HISTORIC 08/29/2008 LOS ANGELES BD0202859 ACTIVE) (AA 586-598)

The trust income, true income from Mike Roos & Company, and true income from Stone & Youngberg needs to be calculated according to Family Code Section 4058 so this means all support orders need to reflect the trust income (The Roos Family Living Trust) and or true income on Respondent's tax returns which Appellant has not received. (AA 45-1144) In addition, the Exempted trust income needs to be included EIN# 33-6088274. (AA 175) Also, all support orders need to be corrected as to the false credits given, which were done behind closed doors without Appellant's participation and or knowledge. (AA 45-1144) Appellant has not received any information regarding how, when, and what credits were given to Respondent. (AA 575-598)

Family Code Section 4058 subdivision (a) provides: "(a) The annual gross income of each parent means income from whatever source derived, except as specified in subdivision (c) and includes, but is not

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Limited to, the following:
"(1) Income such as commissions, salaries, royalties, wages, bonuses, rents, dividends, pensions, interest, trust income, annuities, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, social security benefits, and spousal support actually received from a person not a party to the proceeding to establish a child support order under this article.
(2) Income from the proprietorship of a business . . . reduced by expenditures.
(3) In the discretion of the court, employee benefits or self-employment benefits"
Appellant now knows something is not right regarding the original order of support done in 1994 as Respondent now states in Respondent' Reply Brief on page 30 that Appellant was to receive $7,500 spousal support from that order in 1994. (RRB 30) Appellant found it hard to believe that the guideline support was for only $3,200 in spousal support as Appellant was not given the right support on the order done in 1994 it should be corrected to the original date of the order as the order wasn't modified until April 1, 2004. (AA 575-598) Judge Black, Respondent's attorneys, and Respondent refused to address the fraudulent credits granted for Respondent and fraudulent support orders done on fictitious lifestyle numbers not tax returns as required by State of California Guidelines. (AA 175-191)

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Respondent committed fraud on the Court and lied to Appellant by misrepresenting the facts, committed perjury on all income and expense declarations by not reporting his true income from the concealed trusts, and never turned over any actual tax returns most likely out of fear of exposing the trust & trust income, and or any other hidden undisclosed assets and income producing assets.(AA 45-1144) Respondent concealed the existence of the Roos Family Living Trust and Exempted Trust during all divorce proceedings, support hearings, and Respondent claimed in his most recent Response filing done on 10-14-08 to the motion to set aside Judgment of 6-4-04 that the Roos Family Living Trust was his mother's trust. (AA 1145-1149) Respondent refuses to acknowledge that he is a co-trustee of the Fraudulent Roos Family Living Trust. (AA 45-165) Appellant did not discover the fraudulent trust until after Appellant found out Respondent had an interest in the Commerce Casino according to a K-1 form mailed to the Court house on 4-1-08. (AA 63-165) The Commerce Casino interest was apparently transferred via the fraudulent Roos Family Living Trust according to Respondent's mothers' probate file. (AA 45-165) Appellant found out Respondent's father died with no will and or probate on 4-15-08 and that the entire Roos Family Living Trust and Exempted Trust was fraud as Respondent's father was listed as an original trustor. (AA 431-434)

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California Probate Code Section 6322 clearly states: **The designation is ineffective unless the designators will contains provisions creating the trust or makes a disposition valid under Section 6300. As Respondent's father died with no will that would make any existence of The Roos Family Trust with the father listed as a trustor fraudulent.**

Respondent purposely wrongly restates Appellant's Appeal is from a "decision in 2004" to confuse the court when Respondent knows the appeal is from orders made by Judge Diaz on 4-27-09 as correctly stated on Respondent yellow Reply Brief cover. (RRB Cover) In Respondent's Reply Brief, Respondent states incorrectly in his table of contents false words regarding Appellant's argument to confuse the court that Appellant is attempting to appeal a judgment "decision in 2004" made by Judge Black which is not part of this appeal rather than the orders/judgments made by Judge Diaz on 4-27-09 which include the set aside motion of judgment dated 6-4-04 and attorney fees (including support orders), freezing order, and motion to quash. Judge Diaz denied the set aside motion on 4-27-09, denied the freezing order on 4-27-09, and granted Respondent's motion to quash on 4-27-09. (AA 1276-1291)

Appellant was never granted discovery and or a trial on her OSC for the set aside motion originally filed on 9-29-08. (AA 1277-1289) Respondent attempts to introduce new false and misleading claims in

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Respondent's Reply brief that an actual trial occurred before Judge Diaz that included witnesses, written testimony, conspiracy theories, inflammatory language, and Respondent's alleged influence with the court. (AA 1277-1289) No such trial occurred. Appellant was denied an actual trial on the un-adjudicated assets and there were a few hearings on the matter regarding the set aside motion and freezing order. (AA 45-1291) Furthermore, Appellant was denied basic due process, discovery, and financial resources to hire an attorney which was an abuse of discretion by Judge Diaz and Judge Black. (AA 45-1291)

Respondent falsely states that statute of limitations must apply when Respondent failed to disclose assets and income. (RRB 1-37) So how could Appellant have had proper discovery if the assets were never fully disclosed when Respondent was a trustee of the Roos Family Living trust during all divorce proceedings, support order hearings, and Respondent never disclosed the existence of the Roos Family Living Trust and or Exempted trust? (AA 45-165, AA 1145-1149)

Judge Diaz abused his discretion as there was substantial evidence to support a finding of ample proof (Undisclosed assets) to grant a set aside of Judgment dated 6-4-04, attorney fees including support orders, a freezing order, and discovery as Appellant met the necessary elements for relief under Family Code Sections 2120-2129. (AA 45-

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1144) Also, Respondent violated Family Code 1101 (h) within the ambit of Section 3294. Judge Diaz should have found Respondent's failure to disclose that he was a trustee of the Roos Family Living Trust during the marriage constituted fraud, oppression, and malice within the meaning of Civil Code 3294 and Family Code 1101(h).

C.) PORTIONS OF RESPONDENT'S REPLY BRIEF THAT ARE OUTSIDE OF THE RECORD THAT NEED TO BE STRICKEN

As Appellant's motion to strike Respondent's Reply Brief in its entirety was denied. Appellant asks the Court of Appeals to strike the portions of Respondent's Reply Brief that are outside the record on this appeal. Respondent has raised many new issues in hopes of diverting the Courts attention away from Respondent's behavior, his financial abuse; failure to disclose assets, fraud committed, perjury committed, and misrepresentation of material facts to Appellant and the Court whereby Respondent secured a fraudulent judgment back in 6-4-04. Respondent is attempting to expand the record with issues that are not part of this appeal. Appellant is going to attempt to point out these new issues below raised by Respondent that were never raised before the lower court as well.

Appellant asks the Court of Appeals to ignore/ strike any reference to a confidential child custody report as Respondent's Reply Brief has included excerpts

from this report which is not part of the record on this appeal in order to bias Appellant, was from another trial involving child custody, was not part of the record, and or trial court record before Judge Diaz and or Judge Black.

Respondent's Reply brief is in direct violation of the rules of the court as it contains impermissible and inadmissible matter drawn from outside the record under Civil Code of Procedure 435-437, specifically 436(a) (b). Additionally each expansion of the record is absent of required citations to the record and therefore should be stricken per California Rules of the Court, rule 8.204(a) (1) (c). *(City of Lincoln v. Barringer (2002) 102 Cal.App.4th 1211, 1239, fn. 16[126 Cal.Rptr. 2d 178].)* California rules of the court are clear that every document and factual argument cited on appeal must actually have been presented in the court below and every reference to a matter in the appellate record must be supported with a citation to the volume and page number of the record where the matter appears. When non-record issues, arguments, and evidence are raised in a reply brief, the appropriate remedy by the court is to strike it. As documented below, the reply brief submitted by Respondent is riddled with violations of the fundamental rules of the court and the items not part of the record should be stricken.

Importantly, what is NOT RESPONDED TO in the reply brief is the most damaging to the Respondent. The reply brief fails to address the key issues of the

appeal such as: new evidence exposing non-disclosure of financial assets by Respondent, Mike Roos; judicial misconduct by Judge Diaz and Judge Black in preventing discovery of critical evidence; fraudulent credits in the amount of $924,000 granted to Respondent, Mike Roos, from behind closed doors by Judge Black and District Attorney/Department of Children and Family Services (theft by fraudulent audits). The audits and orders that were used to grant these fraudulent retroactive credits to Mike Roos have NEVER been provided to Appellant despite numerous written requests to the Department of Children and Family Services and the District Attorney. To-date, both the District Attorney and the Department of Children and Family Services have unlawfully denied Appellant access to the records of how these fraudulent credits were granted. Judge Black improperly refused to hear the issue (of theft by audit) when presented with this information in court by Appellant. Denial of financial resources to Appellant has resulted in an unfair playing field that is biased against appellant, and has resulted in self-representation before the court. The reply brief by Respondent is silent on these key issues of the appeal.

From 5/22/09 until 11/30/09 Respondent had adequate opportunity to designate the record for this appeal as per rule 8.121. Respondent also had ample opportunity to designate an appendix and chose not to. Instead of abiding by the rules of the

court, Respondent now chooses to use his response brief as an attempt to expand the record with issues, arguments, and new evidence that ARE NOT part of the record. This behavior by Respondent is a clear violation of the rules of the court. "If it is not in the record, it did not happen". (*Protect Our Water v. County of Merced, 110 Cal. App. 4th 362,364 (2003).)*

Respondent's brief unlawfully attempts to expand the record with new issues, arguments, and evidence that are not part of the record. Respondent had the opportunity in the lower court (in front of Judge Diaz) to respond to the issues, arguments, and evidence presented to the court by Appellant on 10/28/08 (and eventually served on an evasive Respondent on 1/16/09). Despite being granted several months to respond (until 4/27/09), Respondent did not file ANY OBJECTIONS OR DENIAL TO THE CHARGES, nor raise ANY new issues to the court of judge Diaz (such as his newfound desire to: object to the new evidence, claim statute of limitations on support orders and fiduciary duty, allege re-litigating the decision, allege recycling old arguments, and attempt to explain concealment of material facts on the sale of the Kenilworth Avenue Family home). One can only speculate regarding the motives of Mike Roos for failing to respond to the new evidence and serious charges of fraud, embezzlement, and concealment of assets. Appellant believes that Respondent deliberately

failed to reply to these charges out of his desire to minimize evidence and testimony that would only further incriminate himself. Regardless of why Respondent failed to respond, this reply brief cannot now be hijacked and used to raise NEW issues, arguments, and objections to improperly expand the record. Such behavior is a flagrant abuse of the rules and procedures of the court. "A party may not by–pass the fact finding process of the lower court and introduce new facts in its brief on appeal." *United States v. Allen, 522 F.2d 1229, 1235 (6th Cir. 1975)* (holding that an appellate court cannot consider material in a brief that is not part of the record).

In his statement of facts Respondent presents that child custody was decided by stipulation in March of 2000. This portrayal by Respondent is fraudulent and misleads the court about significant facts on child custody. This portrayal is unsupported by any valid factual evidence. Child custody was decided in April 23rd 2004, and it DID NOT occur by stipulation. Any investigation into the true facts and evidence will reveal that Respondent lost custody of his children in a backroom deal with Judge Black, the D.A., and L.A.P.D., whereby Mr. Mike Roos was forced with the hard choice to either give up all rights to his children or face prosecution for child abuse. The catalyst for this backroom deal was a 911 call from an independent party regarding allegations of child abuse by Mr. Mike Roos involving his youngest child while under his sole care. A

subsequent police report on the incident included photos of the abused child. Department of Child Support Services was also involved and wanted Mr. Mike Roos criminally charged. Faced with potential jail time, Mr. Mike Roos unilaterally relinquished all parental rights to his two children at an emergency ex-parte hearing.

The brief must set forth all arguable issues, and contain citations to the appellate record as well as appropriate authority. (*People v. Barton (1978) 21 Cal. 3d 513, 519; Harris, supra 19 Cal. App. 4th at p. 714.)*

The Violations of the rules of the court are as follows (See RRB 1-37):

A. Enlarging the record through the introduction of non-record evidence and New Issues and New Arguments never raised in the lower court :

1. Page ii & Page 9, 11 introduces new *statute of limitations claim on fraudulent support orders*
2. Page ii, iii, & Page 9, 20,21 raises new *statute of limitations claim on non-disclosure of assets*
3. Page ii & Page 9, 11,18,21,27 introduces new allegation of "*recycles old arguments*"
4. Page ii & Page 9, 11, 21 introduces new *questions on the discovery of new evidence* on concealment of assets by Respondent that he failed to disclose in the 2004 trial (such as the fraudulent Roos Family Living Trust that he owned as a co-trust or)

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5. Page ii & Page 10, 20 introduces new allegation *community drained assets from Roos Family trust*

6. Page iii Page 22, 23 introduces new issues *regarding a value of Kenilworth in 2002 ???*

7. Page iii Page 24, introduces allegations that *discovery was not denied*

8. Page iii Page 25 introduces new information on why *Respondent didn't respond to set aside motion and or case over view*

9. Page iii, Page 18, 27 introduces *a new cross appeal claim* that Appellant has no right to be heard on appeal and there was no abuse of discretion

10. Page iii,20,32,33,34,35,36,&37 introduces new (false and misleading) information that an actual trial occurred before judge Diaz that included witnesses, written testimony, conspiracy theories, inflammatory language, and Respondent's alleged influence with the court. No such trial occurred.

B. Missing Citations:

Pages:

2,3,8,9,10,11,12,13,14,18,19,20,21,22,23,24,25, 26,27,28,29,30,31,32,33,

34,35, 36,&37

C. False Citations:

Pages:

3,6,7,9,10,15,19,20,21,22,23,24,25,26,27,29,30,&31

D. Misrepresenting the Facts:

1. Page 2 stipulation/child custody completely false

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2. Page 32-37 no trial, no testimony, no witnesses in the court of Judge Diaz
3. Page 4,5, falsely claims Appellant got Guideline support orders when no tax returns were given and Respondent concealed assets and committed perjury on every single income and expense statement
4. Page ii, 18 falsely reframes Appellants appeal to be an appeal on a "Decision of 2004" rather than the 4/27/09 denial by Judge Diaz on set aside motion of Judgment dated 6/4/04.

E. Confidential Inadmissible Evidence that requires prior judicial authorization:
Page 1 & 2 Kay Bathurst report
F. Introduction of disrespectful, scandalous, and abusive language:
Page 1,2,6,7,8,10,26,27,31,32,36,& 37

Respondent includes a confidential report (Kay Bathurst report) on the very first page of his brief and second page, which is inadmissible because it not part of the record AND because it is Confidential. Any Confidential information requires judicial notice. This has not occurred. Additionally, the fact that the report was paid for by Respondent, is disrespectful and scandalous to Appellant, and is intended to bias the court makes the magnitude of the infraction even more serious. Appellant requests

appropriate sanctions for the unethical behavior of Mr. Kenneth Nehagian and Mr. Jordan Metz.

"An attorney who files a brief which contains disrespectful, scandalous, or abusive language directed against courts, officials, or litigants violates a statue requiring attorneys to maintain the respect due to courts and judicial officers, commits a reprehensible breach of duty, and is guilty of contempt of the appellate court." (*4 Cal. Jur.2d 322, Appeal and Error, 486)* Respondent's attorney Mr. Jordan Metz knowingly commits the violation stated above over ten different times (See RRB page 1,2,6,7,8,10,26,27,31,32,36,& 37).

Respondent's Reply brief falsely states that Appellant never requested a statement of decisions on the Judgment entered by Judge Black back in 6-4-04. (AA 733-734) Appellant did ask for a statement of decisions prior to the judgment being entered by Judge Black back in 6-4-04.(AA 734) Appellant was denied a statement of decisions by Judge Black back in 2004 and was denied access to the court records on the divorce file ever since. (AA 175-191) Appellant was led to believe by Art, the court clerk that Judge Black would issue Appellant a statement of decisions in writing as Appellant had requested a statement of decisions be issued in her further trial brief. (AA 734) Art claimed over and over to Appellant that Judge Black would be preparing a statement of decisions on the divorce case judgment dated 6-4-04 even though it had been several years all the way up until the

case was transferred to Judge Diaz, Art was representing that a statement of decisions would be forth coming soon. (AA 175-193) Appellant is a layman and has now realized Judge Black had no intention of adhering to the rules of the Court according to Art, that Judge Black was never going to supply a statement of decisions as this would prevent an appeal from being done on his rulings on Judgment from 6-4-04, and was trying to get the case beyond the statute of limitations to avoid criminal prosecution for his own criminal behavior of judicial misconduct. (AA 175-193) Respondent incorrectly states Appellant is appealing the decision made by Judge Black from 6-4-04 when THIS APPEAL CLEARLY STATES APPELLANT IS APPEALING ORDERS MADE BY JUDGE DIAZ ON 4-27-09. (RRB 1-37)

Respondent falsely states the Court found Appellant was in possession of community property as well as Respondent's separate property and stored it without Respondent's consent. (RRB 4) Respondent fraudulently slipped his wording in a proposed judgment that Respondent filed with the court. (AA 528) This is absurd as Respondent was awarded the family home with all the contents at an ex-parte hearing and Respondent was able to keep all the community property, Appellant's & Appellant's twin sisters' personal belongings.(AA 175-190)

After a severe car accident left the twins disabled with many fractures (whereby the twins were

diagnosed with additional complications caused by the fractures sustained in the car accident, when they were suffering from an underling condition which was discovered at this time "Addison's Disease"), the twins were forced to close their business "Tiara Headbands" and move their business belongings, some of Appellant's & Appellant's twin sister's personal belongings to a storage facility owned by Appellant's mother. (AA 175-193) Respondent knew that Appellant had an unpaid storage bill as he was not paying Court ordered support, and wanted to keep all of Appellant's & Appellant's twin sister's belongings from their business and personal items too. (AA 175-193) Judge Black granted Respondent access with a court order to the storage facility that belonged to Appellant's mother, when Appellant & Appellant's twin sister were unable to be present because of their physical disabilities sustained in the car accident. (AA 175-193) Respondent was allowed to steal anything of value; all of the Tiara Headbands essentials to stay in business, Eleanor Lines Designs, and Appellant's & Appellant's twin sister's personal belongings. (AA 55- 61)

D.) MOTION TO AUGMENT RECORD ON APPEAL FILED BY APPELLANT ON 9-18-09 TO INCLUDE SEALED SUBPOENA INFORMATION REGARDING AN ASSET THAT WAS IN DISPUTE ON THE DIVORCE (THIS SUBPOENA BELONGS TO APPELLANT AND REVEALS THE TRUE

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SOURCE OF FUNDS ON THE $531,561) THE SUBPOENAED INFORMATION NEEDS TO BE UNSEALED AND INCLUDED IN THIS APPEAL FOR APPELLANT TO HAVE A FULL AND FAIR APPEAL AS THIS ASSET WAS NEVER PROPERLY ADJUDICATED

The improperly sealed subpoena in the divorce case and the motion to Augment done on 9-18-09 needs to be included in the appeals case showing the marker and off set of the $531,561, as new evidence proves the money is indeed part of the community estate and or insurance fraud, and was wrongly put under seal by Judge Black. (AA 384-390) The information from the sealed subpoena needs to be included on this appeal for Appellant to have a full and fair appeal. (AA 384-390) Appellant is asking the Court of Appeal to release the information as it belongs to Appellant and should never have been put under seal by Judge Black, when there was no Motion and or application filed to seal these records and Respondent never objected to the subpoena being satisfied and or put on the record. (AA 175-190) In addition, Respondent never objected to our motion to augment either filed on 9-18-09. (see appellate record) The disputed $531,561 was an asset that needed to be adjudicated in the divorce and still does. (AA 334-341) Appellant is asking the Court of Appeals to unseal these records as addressed in Rule 2.550 (c)-(e). Appellant has a right to know the true source of funds as this asset was never adjudicated

and is a community asset and or insurance fraud settlement check. (AA 175-190)

ARGUMENT

II) Whether the trial court abused its discretion on support orders? Appellant believes the trial court erred in not hearing Appellants set aside motion regarding the false credits granted to Respondent on support orders. Appellant has never received any payments from Respondent on the arrearages case amount owed in the amount of $924,000 plus interest and Respondent has been given additional false credits on current support orders through fraudulent audits conducted by The Department of Children and Family Services. (AA 175-193, AA 575-598) Appellant has been told by the Department of Children and Family Services that there was credits given but Appellant has never received any of these orders granting Respondent credit. (AA 575-598) The Court has allowed Respondent to continue to embezzle more money from Appellant through these audits at the Department of Children and Family Services. (AA 575-598) Respondent has had no repercussions at the Court level for this type of financial abuse and fraud. (AA 175-193) Respondent has learned how to successfully embezzle money from Appellant through these audits at the Department of Children and Family Service because Respondent is never held accountable for his criminal and devious behavior. (AA 575-598) The Department of Children and

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Family Services never informs Appellant when an audit is being conducted, never allows Appellant to participate in these audits, never has sent any information, and or orders determining the calculations on how these false credits were given to Respondent. (AA 175-193, AA 575-598)

Also, the trial court erred in denying the motion to set aside Judgment 6-4-04 and attorney fees, which included all support orders in the Judgment dated 6-4-04. (AA 1276-1291) Appellant was entitled to a trial and retroactive modification on all support orders because Respondent did conceal assets, did conceal income, did commit fraud on all financial declarations, did commit perjury on all income and expense declarations. (AA 45-165) Respondent has violated his statutory duty of disclosure under Section 2100 et seq. in the divorce proceedings (AA 45-193)

Respondent has shown no proof of payment other than to state in Respondent's Reply Brief the audits have been done correctly by the Department of Children and Family Services. (RRB 1-37) Respondent has learned how to steal money through these audits at the Department of Children Family Services, whereby he has someone manipulate the records to indicate payments have been received when Respondent has not paid the Court ordered support. (AA 575-598) Appellant has been prevented from participating in these audits and has not

received any information regarding how these credits have been calculated by the Department of Children Family Services, which is against the law. (AA 575-598) Respondent has just orchestrated another audit during this appeals process with the Department of Children and Family Services behind Appellant's back, whereby Appellant was unaware this was happening, was not allowed to participate, and was just shorted another $40,000 in child and spousal support payments. (AA 575-598) Respondent has paid no support for the month of November of $20,810 because of these new false credits given to Respondent by Department of Children Family Services in November 2009. (AA 575-598) Appellant cannot absorb these false credits given through audits at the Department of Children and Family Services anymore and if the payment for November's support of $20,810 is not paid before January 15th, 2010, Caroline Roos will be forced to move home from college and forced to withdraw from the University for non- payment of tuition and dorm dues owed. (AA 575- 598)

A.) ABUSE OF DISCRETION

Judge Diaz claimed Appellant lacked the proof to warrant a motion to set aside the Judgment dated 6-4-04, grant a freezing order, denied discovery, and denied financial resources for an attorney. (AA 1277-1289) Appellant believes Judge Diaz has been quite cruel as Respondent has been allowed to continue to abuse Appellant, the children, and the entire judicial

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system because Respondent wants to keep embezzled assets that rightfully belong to Appellant & Appellant's twin-sister, and not pay Court ordered support. (AA 45-1144) Respondent submitted a fraudulent final financial on 3-2-00 whereby he failed to fully disclose assets, income, and material facts during all the divorce proceedings and on this final financial declaration. (AA 316-324) (Respondent was a co-trustee on the concealed fraudulent Roos Family Living Trust (AA 45-165) and Respondent kept another secret that he was selling the family home for double the amount he claimed it was worth).(AA 516-517) Appellant doesn't know how much more proof would be needed to set aside the fraudulent judgment as Respondent did use his mother as a conduit to embezzle Community, Quasi-Community, and or Separate property assets out of the marriage with the creation of the fraudulent Roos Family Living Trust, false portrayal of rich mother (Respondents mother and now Respondent's sister, Melissa Walker, have embezzled and collected ill gotten gains from the Commerce Casino investment. (AA 175-193) The Commerce Casino investment rightfully belongs to Appellant & Appellant's twin-sister as Respondent embezzled the money for the investment with money stolen by Respondent, Respondent's mother, and Don Levin through money laundering on the Sacramento rental house investment purchase and sale as Appellant just discovered the undisclosed loan that was put on the

Sacramento property without the permission of Lorna Roos and or Leslie Stevenson Reilly). (AA 194-202)

Judge Diaz refused to set aside the judgment by dividing the community property under section 2122, and the trial court's denial is subject to reversal on this appeal as Judge Diaz did not comply with Section 2122 and has abused his discretion in denying Appellant's motion to set aside Judgment dated 6-4-04 including all support orders, attorney fees, freezing order on the un-adjudicated assets, discovery, appropriate sanctions, and a trial. (*In re Marriage of Varner (1997) 55 Cal. App. 4th 128, 138.)*

Generally, the grant or denial of a new trial is purely within the discretion of the trial court and will not be reversed except upon a showing abuse of discretion. *Whittington v. New Jersey Zinc Co., 775 F. 2d 698 6th Cir.1985); Gordon v. Norman, 788 F. 2d 1194 (6th Cir.1986).* Abuse of discretion is defined as a definite and firm conviction that the trial court committed a clear error of judgment which is the case here.

CONCLUSION

Respondent's financial abuse needs to be stopped as it will now come at a great cost to Caroline Roos. (AA 45-1144) Appellant's credit has been ruined because of Respondent's failure to pay court ordered support and because the false credits granted by The Department of Children and Family Services have caused Appellant to not receive current monthly

support. (AA 575-598) Appellant wants Respondent prosecuted to the full extent of the law. (AA 175-193) Appellant wants the person and or persons giving false credits at the Department of Children Family Services prosecuted to the full extent of the law for manipulating the system by granting Respondent false credits through audits when Appellant has not received the court ordered support. (AA 575-598) It is no overstatement to say that as result of Respondent's power of influence, Respondent has been able to continue his criminal and abusive behavior both physically & financially for years. Any other person committing these same crimes would already be in jail. (AA 175-193)

In Respondent's Reply brief, Respondent does nothing to address his lack of financial disclosure on assets (non-disclosure of being a trustee of the fraudulent Roos Family Living Trust) and concealment of material facts. (RRB 1-37) As Respondent secured fraudulent judgments, fraudulent credits, and fraudulent support orders in this divorce case, Appellant is asking the Court of Appeals to grant the motion to set aside Judgment dated 6-4-04 including all support orders, grant the freezing order, attorney fees, appropriate sanctions, discovery, and a trial. (AOB 57-58)

Appellant would like Respondent to be immediately ordered by the Court of Appeals to forfeit 100% of the non- disclosed assets as a sanction under Section 1101, subdivision (h) as Respondents breach of

fiduciary duty falls within the ambit of Section 3294 this is the appropriate remedy for Respondents lack of disclosure and fraudulent concealment of assets from Appellant to include; Sale proceeds from the sale of the family home $1,299,000 - $650,000= $649,000 (AA 516-517), all assets in the fraudulent Roos Family Living Trust (AA 260-300), all assets in the Exempted Trust EIN # 33-6088274 (AA 260-300) , ownership of Commerce Casino to include at least 20 shares: 10 shares held in Melissa Roos' Walker's name (Respondent's sister), 10 shares held in Mike Roos' name, and all ill gotten gains from this investment (the interests were transferred via the Fraudulent Roos Family Living Trust (AA 203-254)), ownership of joint tenancy accounts never disclosed by Respondent yet held by Respondent as stated in Respondents' mother's probate file clearly states it totals at least $1,500,000 worth of assets (AA 314-315), ownership of Stone & Youngberg L.L.C. interest (AA 43) , ownership in Mike Roos & Company(AA 17), ownership Iroquois property joint tenancy acct. listed in mothers probate file (AA 301-306), prudential account held joint tenancy acct. listed in mothers probate file(AA 307-313), life insurance policy held as special co-trustor never disclosed. (AA 45-165, AA 175-1144). Respondent should be ordered to return all of Appellant's & Appellant's twin-sister's personal belongings.

In addition, Respondent should be ordered to pay Appellant for false credits given to Respondent by

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Judge Black as Respondent did use his mother and friends as conduits to steal money out of the marriage with bogus loans and a false portrayal of having a rich mother (When Appellant has just learned the only income his mother received was from social security (AA 1142-1144) : $64,000 for a false claim of separate property (AA 55-61), $100,000 falsely awarded to Respondent as a separate property claim as a gift from his mother (AA 362-367) , $100,000 was falsely given to Respondents parents during the marriage, $75,000 was falsely given to Arnold Forde (AA 496-508) , $50,000 was falsely given to John Burton (AA 510-511). Respondent fraudulently claimed he purchased a $100,000 worth of assets from a bogus gift from his mother and Judge Black falsely awarded Respondent these following assets that were in dispute as his separate property and now they need to be adjudicated as they are community property; AKT Development $43,000, Aames Financial corp. $1,509, Indymac Mortgage holdings $9,313, Intel Corp. $19,500, Lakes Gaming $1,140, Park Place Entertainment $3,750, Miscellaneous securities at Charles Schwab acct 7595-7161 $34,000, Savings account at Tokai Bank #092105830 $6,296, and checking acct. at Tokai Bank $4,245. (AA 324)

Lastly, Appellant will need money financial resources to hire an attorney and forensic accountant. Appellant will also need discovery and a trial to receive a full and fair Judgment regarding

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the lack of full disclosure of all assets by Respondent in order to access the true community, quasi-Community, and separate property assets of this marriage.

Respectfully submitted,

"s/"

Dated
Lorna Roos In Pro Per

"s/"

By Lorna Roos

Appendix M

Lorna Roos
1482 East Valley Rd. #305
Santa Barbara, CA. 93108
(805) 845-8395
In Pro Per

COURT OF APPEAL, SECOND APPELLATE DISTRICT
DIVISION THREE
STATE OF CALIFORNIA

Lorna Roos	) Appeal No. B216438
Petitioner and Appellant	) Superior No. BD202859
v.	) MOTION TO
Michael Y. Roos	) AUGMENT RECORD
Respondent	) ON APPEAL
	(DOCUMENT REQUESTED)
_____	)

Pursuant to Rule 8.155 (a) of the California Rules of Court, I, Lorna Roos, request augmentation of the record on appeal to include a document in this case that was not included in the Appellants Appendix. The document is:

Sealed Subpoena from Imperial Bank at the Superior Court house that was put under seal by Judge Kenneth Black SEE page 390 of Appellants Appendix showing Imperial Bank did indeed satisfy subpoena showing marker and off set of the $531,561.

The reason I am requesting the item is:

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The sealed subpoena that was satisfied by Imperial Bank to the Court house shows the maker and off-set of the $531,561 that was in dispute and was not included in the martial estate whereby new evidence proves the money is indeed part of the community estate and or insurance fraud and was wrongly put under seal by Judge Black as no one filed a motion to have this information sealed and Respondent never objected to the subpoena being satisfied and or put on the record. I declare under penalty of perjury that the foregoing is true and correct. Executed at Los Angeles, this 15th day of September 2009

"s/"

Lorna Roos In Pro Per

MEMORANDUM OF POINTS AND AUTHORITIES
AUGMENTATION SHOULD BE ORDERED
TO ALLOW APPELLANT TO RECEIVE
FULL AND FAIR APPELLATE REVIEW

Rule 8.155(a) of California Rules of Court permits the augmentation of the appellate record and specifically under Rule 8.155(a) (1) allows a document not designated under Rule 8.130 and or 8.124 to be augmented and permitted. It is well established that this rule is to be construed liberally. (*People v. Brooks (1980) 26 Cal.3d 471, 484.*)

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The need for augmentation here is compelling. Appellant believes the trial court erred in sealing a subpoena that Appellant found out was satisfied to the Court from Imperial Bank showing the offset and marker of a suspicious check for $531,561 when Respondent falsely claimed a $100,000 cashier's check was a gift that came from the suspicious check and therefore was his separate party whereby the trial court granted a Judgment based on its own determination of the credibility of conflicting declarations that has now become an issue as the new evidence proves Respondent lied about the $100,000 gift as Respondent never disclosed he was a co-trustee of The Roos Family Living Trust when Respondent owned the $100,000 and the $531,561 should have been included in the martial estate and Respondent fraudulently created The Roos Family Living Trust in the marriage to steal and embezzle assets that rightfully belong to Lorna Stevenson Roos and Leslie Stevenson Reilly including an alleged insurance settlement check for $531,561. The issue can only be reviewed on appeal if the sealed subpoena information is part of the appellate record and can be viewed by the reviewing court as there appears to have been judicial misconduct by Judge Black over this matter.

Also, Appellant did designate Respondents testimony page 880 Appellants Appendix Volume 3 but when Kinko's went to copy the declaration page 6 was missing, Appellant would like everyone to

receive a copy of page 6 so Appellant has made a copy that inadvertently did not copied in the original Appellants Appendix page 880.

Not only is augmentation necessary, it will not prejudice any party and 1.) The record should be unsealed as no one objected to the subpoena in the first place; Judge Kenneth Black wrongly sealed the Imperial Bank subpoena when there was no motion filed to do so and 2.) The person at Kinko's misplaced the page 6 of Respondents testimony and Appellant was unable to provide a copy in the Appellant's Appendix page 880 Volume 3 and is now providing a copy. The augmentation request concerns documents which were all part of the record. Additionally, the augmentation should not cause a delay in this appeal.

CONCLUSION

For the above reasons, this Court should order the record to be augmented on appeal by including 1.) The sealed subpoena information from Imperial Bank at the Court house and 2.) Page 6 of Respondent's testimony inadvertently did not get copied in Appellants Appendix as page 880, these documents requested in this motion.

Dated: 9-16-09
Respectfully Submitted,

"s/"

Appendix M

Lorna Roos In Pro Per

DECLARATION IN SUPPORT OF MOTION TO AUGMENT

I, Lorna Stevenson Roos, declare and state as follows:

I am a self-represented litigant. Appellant discovered Imperial Bank did indeed satisfy a subpoena showing the marker and off-set of a suspicious check in the amount of $531,561 (see Appellants Appendix page 390 provides a copy of what was satisfied to the Court by Imperial Bank) but Judge Black wrongly put the information/ documents under seal when no one filed a motion to do so and Respondent never objected to the subpoena either and Appellant has been denied access to make a copy of the subpoenaed information as well. Appellant did give notice to the Court that Appellant was trying to locate these documents but the Court has failed to respond and or confirm they found the sealed subpoena from Imperial Bank showing the marker and off-set of the suspicious check, thinking it was possible for the reviewing Court to see what's in the sealed subpoena Appellant was not aware she needed the sealed subpoena to be designated on the appeal record for the reviewing Court to view the information as requested by Appellant in Appellants

brief. Also, the Court claims they have not been able to locate the sealed subpoena from Imperial Bank. I am a layman and I believe Judge Kenneth Black had no right to seal the Imperial Bank subpoena as no one filed a motion to have the information sealed. The sealed subpoena information was and is material to the cases' issues. The subpoenaed information was and is therefore a necessary element of the record on appeal. In addition Respondents testimony designated as page 880 in Appellants Appendix volume 3 was not copied by Kinko's and is now being included and attached to this motion. Because the documents requested are attached and or at the Court house under seal, there should be no significant delay, and possibly no delay at all with this appeal. I know of no prejudice to any party as a result of the granting of this motion. This motion is made in good faith for the reasons set forth above and not for the purposes of any delay.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 15th day of September 2009, at Los Angeles California

"s/"

Lorna Roos In Pro Per

Appendix N

COURT OF APPEAL,
SECOND APPELLATE DISTRICT
DIVISION THREE
STATE OF CALIFORNIA

Lorna Roos	Appeal No. B216438
Petitioner and Appellant	Superior No. BD202859
v.	MOTION TO AUGMENT RECORD ON APPEAL
Michael Y. Roos	
Respondent	(DOCUMENTS ATTACHED AS EXHIBITS A, B, C, D, E, F, G, & H)

Appeal from Los Angeles Superior Court
Judge Rudolph Diaz and Judge Kenneth Black

MOTION FOR AUGMENTATION OF THE RECORD ON APPEAL FILED 3-16-2010 WITH EXHIBITS ATTACHED AS A, B, C, D, E, F, G, & H, AND PROPOSED ORDER

Lorna Roos
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(805) 845-8395
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Appendix N

MEMORANDUM OF POINTS AND AUTHORITIES
AUGMENTATION SHOULD BE ORDERED TO ALLOW APPELLANT TO RECEIVE FULL AND FAIR APPELLATE REVIEW

Rule 8.155(a) of California Rules of Court permits the augmentation of the appellate record and specifically under Rule 8.155(a) (1) allows a document not designated under Rule 8.130 and or 8.124 to be augmented and permitted. It is well established that this rule is to be construed liberally. (*People v. Brooks (1980) 26 Cal.3d 471, 484*)

Appellant is requesting Augmentation of the record because Appellant has just received documents that have a direct bearing on the three main issues being heard on this appeal. The attached records just became available and are essential as they will aid the Court to determine the arrearages owed by Respondent, assets, and income concealed by Respondent on this appeal

1.) Respondent's failure to comply with disclosure requirements and the broad frauds committed by Respondent including the fraud at Children and Family Services which is still ongoing,

2.) Children and Family Services fraud committed by not collecting court ordered support, granting false credits for Respondent by accepting third party checks including now Janus Fund, Exxon, and Mobil as support paid to Appellant, and then conducting

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false audits for Respondent (manipulating records to cover- up false credits given including the divorce judgment equalizing check payment by audit), and

3.) Judicial Misconduct by Judge Black destroying evidence and allowing Respondent to put forth third party checks and divorce judgment checks as support to Appellant through audit department at Children and Family Services. This is all against the law. It is imperative that this augmentation motion be granted to include the new evidence as it shows why full discovery is warranted and why all of Respondent's assets need to be frozen immediately.

Appellant has attached duplicate statements sent from Charles Schwab that prove Respondent has been hiding additional assets, a defined benefit plan, and an Employer Tax I.D. Number. Respondent failed to disclose account numbers LA 7623-4155 and 9069-2761 on his final financial disclosure dated 3-2-2000. Respondent has another trust and is a trustee and owner of a defined benefit plan updated and amended on 1-1-2000 as shown on account number 9069-2761. The defined benefit plan is an undisclosed community asset that needs to be forfeited in its entirety actual account value $1,322,447.40 on Charles Schwab statement.

What's more, Respondent failed to disclose that he was using an employer Identification number 95-7110254 to conceal income and assets so Appellant is going to need full discovery to include discovery on this tax I.D. number as well in order to truly

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determine how many community assets and income have been hidden by Respondent. Appellant just discovered this information from the Charles Schwab statement on account number LA 7623-4155.

The statements attached from Charles Schwab were originally sent to the court house back in December 2007 prior to a higher support order hearing before Judge Black for April 2008 but were withheld from Appellant. The enclosed statements are very damaging to Judge Black and Respondent as Appellant was not even given any money for an attorney and or proper discovery by Judge Black. If Appellant had these Charles Schwab statements Appellant suspects both the outcome from the higher support order hearing and the set aside motion hearing would have been different as this new evidence clearly proves Respondent failed to disclose assets and income. Respondent was corruptly hiding assets and income from Appellant using a employer I.D. number that he never disclosed on his final financial disclosure and the income from this tax return which was never calculating in on the higher support orders either.

Appellant has previously requested all her subpoenaed records from the trial court and the trial court refuses to turn over any records to Appellant to date. In fact, Appellant has never been given any access to see her court file since April 1st, 2008. The court claims the case file cannot be located now.

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As the Judgments were based on fraud, perjury, and its own determination of the credibility of conflicting declarations that has now become an issue Appellant wants the new evidence included in the appeal as it proves Respondent lied about many community assets especially regarding the Charles Schwab accounts.

Also, Respondent never disclosed he was a trustee and owner of a defined benefit plan which should have been included in the martial estate. The issue can only be reviewed on appeal if the Charles Schwab information is part of the appellate record and can be viewed by the reviewing court as there appears to have been judicial misconduct by Judge Black over this matter as well.

In addition, Appellant has just received a distribution list from Children and Family Services showing all distribution checks sent to Appellant whereby the distribution statement proves Respondent never paid any money towards the arrearages case.

Also, there was a letter sent from a Ms. Larkin stating a meeting and or hearing occurred on the arrearages case on 3-31-04 whereby Appellant was never included in this meeting and the court docket further proves no hearing took place but apparently, the arrearages case was wiped clean on 3-31-04 behind closed doors without Appellant's knowledge (Appellant believes judgment equalizing check was applied to back support on 3-31-04 as well (double

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credit) when the check wasn't even given to Appellant until 7-2004).

Appellant requested an audit be done going back to 1994 because of all the false credits given to Respondent especially with the missed payment in November 2009. Appellant has never received any arrearages support from Respondent and or the court trustee only interest payment checks. But now Children and Family Services have completed an audit and have fraudulently applied these interest payment checks received as support paid to Appellant (which is fraud) to cover –up the fact that Respondent had fraudulently presented to audit in two possibly three prior audits additional checks from the divorce judgment Janus Fund ($20,000), Exxon ($10,421.) and Mobil ($14,332.90) as false payment of support paid to Appellant.

Moreover, Children and Family Services performed a new audit on Feb. 2010 carving out an audit date only going back to April 2004 because the arrearages were wiped clean on 3-31-04 and never paid. They have now fraudulently included late payments sent in by Respondent for the months of Feb. and March of 2004 as credit in the audit for the month of March/April as support paid for April which shorted Appellant $20,540 in support.

Also, on the new audit Appellant is being charged with approx. $10,270+ $4,152.88 from interest payment checks on the arrears that were never paid as now credit for support checks paid in 2004 to

cover-up Mobil check of $14,322.90 previously put forth and fraudulently credited in a prior audit. So, Respondent is getting double credit as interest paid on arrears first and then through audit as support paid on the same check issued for interest payment. In addition, on the new audit Appellant is being charged with the late March support payment received in April of $10,270 as payment of support paid now towards the month of April 2004 (Respondent is getting double credit again for the same check) in order to cover- up more fraudulent credits previously given in a prior audit on a Exxon check of $10,421 for Respondent. The fraudulent checks credited as support paid by Respondent total ($20,540) and fraudulently credits given as received paid out to Appellant total ($24,000 approx). This brings the total false credits given by audit to $45,000 approx. for Respondent. Appellant needs this money ASAP to pay rent and college bills for her daughter.

Not only is augmentation necessary, it will not prejudice any party. The record should include all attached Exhibits A, B, C, D, E, F, G, & H as follows: (Exhibit "A") The Charles Schwab Statements for accounts LA 7623-4155 and 9069-2761 because they reveal additional hidden community assets and concealed income by Respondent. Children and Family Services have just sent a breakdown showing

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the distribution checks sent documenting no arrears were paid by Respondent so the augmentation should include **(Exhibit "B") distribution list statement**, all supporting (**Exhibit "C") interest checks documents** $10,270+ $4,152.88 because Respondent is now getting double credit as support paid in new audit just completed on Feb 2010 (when these checks are interest checks not support payments) to cover- up fraud on prior audits (prior false credits given to Respondent (**Exhibit "D") Exxon check of $10,421** and (**Exhibit "E") Mobil check of $14,332.90** thru audit) Also, the actual distribution checks show interest was paid on the arrears but no arrears were paid., (**Exhibit "F") simple audit sheet Report** because it shows the fraudulent credits paid and received in month of April 2004, and(**Exhibit "G")** letter **from Ms. Larkin** confirming date arrearages were wiped clean 3/31/04. The overdue **(Exhibit "H") bill from Charles Schwab** proves the records were sent to the court house which is judicial misconduct (destroying evidence) as Appellant was denied these records. The augmentation request concerns documents which are regarding the issues of this appeal and should be part of the record. Additionally, the augmentation

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should not cause a delay in this appeal as the documents are attached.

Dated: March 16th, 2010

Respectfully Submitted,

"s/"

Lorna Roos In Pro Per

DECLARATION IN SUPPORT OF MOTION TO AUGMENT

I, Lorna Stevenson Roos, declare and state as follows:

I am self-represented litigant. Appellant is requesting augmentation of the record because Appellant has just received the attached information and knows without it the Court will not be able to determine the issues on appeal correctly regarding the arrearages owed, assets, and income concealed by Respondent which rightfully belong to Appellant.

Appellant is requesting full discovery as Appellant believes this is just the tip of the iceberg as to Respondents lack of full disclosure and frauds committed. Appellant would like at the very least a proper freezing order be put in place on all Respondent's assets until the full marital estate can

be determined. Appellant wants money for a forensic accountant and an attorney as Appellant is not equipped to handle these issues with only a high school education.

In addition, Appellant believes the court intentionally failed to hand over records because the evidence clearly proves Appellant's charges that Respondent has unfairly hide community assets and income. Appellant believes the court deliberately destroyed evidence because the withheld records shed some light on the Judicial Misconduct alleged by Appellant too. Also, Respondent has refused to turn over any tax returns. Appellant didn't even know these records existed until last week when Appellant was putting the bills together for the appeal and noticed from an overdue bill received from Charles Schwab that they had indeed satisfied a subpoena on case BD 202859. The trial court has wrongly failed to give Appellant her subpoenaed information. Appellant has approx. 10 outstanding bills from subpoenas and has never received this information from the court.

In addition, Appellant has just figured out from a distribution statement sent from Children and Family Services along with previously sent interest

checks from Children and Family Services, and with a simple audit report statement just sent from Children and Family Services that Children and Family Services has performed a fraudulent audit. Children and Family Services is fraudulently manipulating the books in order to cover up prior false credits given to Respondent in at least two maybe three prior audits for a Janus Fund check $20,000, Exxon check $10,421, Mobil check $14,332.90, and divorce equalization check too.

Respondent has become a master criminal at getting fraudulent double credits for the same check. It takes a lot of time and energy to figure out exactly how he has committed these crimes because Children and Family Services have refused to give Appellant any records backing up the audit. More importantly, this pattern of abuse being committed by Respondent, Children and Family Services, and the trial court needs to be stopped because it is affecting the current support due. Ultimately, Appellant wants all involved to be prosecuted to the full extent of the law for the constant financial abuse caused and abuse of power by Respondent.

Appellant has not received current support (Respondent missed another payment again through audit November 2009 entirely and Respondent should be jail for this non payment) because of the

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false application of the interest payment checks on this latest audit performed. Appellant cannot absorb these missed support payments totaling $45,000 now from April 2004. Appellant needs to pay her rent and her daughters Pepperdine University tuition and dorm dues owed. Children and Family Services have now maliciously counted the interest payment checks on arrears as support paid to Appellant in the amount of approx. $10,270+ $4,152.88 plus they have also included a payment that was for March 2004 as credit in the audit as payment for April's support in order to cover- up the credits previously given to Respondent in prior audits as Respondent obviously presented the Exxon check for $10,421 and Mobil check for $14,332.90 as proof of payment when these checks were from the divorce judgment. Appellant has not received current support of over Approx. $45,000 because of these false interest check credits given to Respondent and false credits towards April 2004 in the current audit for Respondent. Note: Respondent is receiving credit of $20,540 in the month of April 2004 on the new audit as support paid (when this amount is really for Feb and March 2004 late payments received in the month of March). The Feb. and March payments have been fraudulently included in the audit to cover-up the false credit given on Janus Fund of $20,000. Respondent was fraudulently credited in the simple audit sheet of support paid in the amount of $43,000 approx. which has been applied as $20,504 towards

arrears and $24,000 approx. credited as April's support paid. (How can this be when Respondent has never paid any arrears owed and Respondent was behind on current support payments at this time?)

For the above reasons, this Court should order the record to be augmented on appeal by including **Exhibit "A")** Charles Schwab statements, **Exhibit "B")** Distribution statement showing actual distribution checks whereby arrears interest checks were sent from Children and Family Services proving no arrearages were paid only interest, **Exhibit "C")** interest checks now being reported as support paid on new audit ($10,270+ $4,152.88), **Exhibit "D")** copy of Exxon check for $10,421., **Exhibit "E")** copy of Mobil check for $14,322.90,

Exhibit "F") fraudulent simple audit report sheet sent to Appellant with no back up records showing the false credits given especially in the first month on the new fraudulent audit for the month of April 20[illegible] **Exhibit "G")** letter from Ms. Larkin from Children and Family Services proving a hearing took place on 3-31-04 but not on court docket whereby the meeting apparently wiped clean any arrearages owed without Appellant's knowledge, and **Exhibit "H")** copy of bill owed on records sent to the court house judicial misconduct evidence destroyed not given to Appellant from Charles Schwab.

I declare under penalty of perjury that the foregoing is true and correct.

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Executed this 16th day of March 2010, at Los Angeles, California

Respectfully submitted,

"s/" _____

Lorna Roos In Pro Per

MOTION TO AUGMENT
EXHIBIT LIST

Exhibit "A" Charles Schwab statements on account LA 7623-4155 and 9069-2761

Exhibit "B" Distribution List Statement

Exhibit "C" Interest Checks on arrears

Exhibit "D" Exxon check $10,421

Exhibit "E" Mobil check $14,322.90

Exhibit "F" Simple Report sheet audit

Exhibit "G" Letter from Ms. Larkin from Children and Family Services

Exhibit "H" Bill from Charles Schwab on subpoenaed documents

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COURT OF APPEAL,
SECOND APPELLATE DISTRICT
DIVISION THREE
STATE OF CALIFORNIA

Lorna Roos	) Appeal No. B216438
Petitioner and Appellant	) Superior No. BD202859
v.	) MOTION TO AUGMENT RECORD ON APPEAL
Michael Y. Roos	)
Respondent	)
	(DOCUMENTS ATTACHED AS EXHIBITS A, B, C, and D)
	)

Appeal from Los Angeles Superior Court
Judge Rudolph Diaz and Judge Kenneth Black

MOTION FOR AUGMENTATION OF THE RECORD ON APPEAL FILED 3-23-2010 WITH EXHIBITS ATTACHED AS A, B, C, and D AND PROPOSED ORDER

Lorna Roos
1482 East Valley Rd. #305
Santa Barbara, CA. 93108
(805) 845-8395
In Pro Per

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MEMORANDUM OF POINTS AND AUTHORITIES
AUGMENTATION SHOULD BE ORDERED
TO ALLOW APPELLANT TO RECEIVE
FULL AND FAIR APPELLATE REVIEW

Pursuant to Rule 8.155 (a) of the California Rules of the Court, I, Lorna Roos, Appellant, request augmentation of the record on appeal to include this motion with attached documents Exhibits "A", "B", "C", and "D" from Children and Family Services regarding fraud committed on case number BD 202859.

Rule 8.155(a) of California Rules of Court permits the augmentation of the appellate record and specifically under Rule 8.155(a) (1) allows a document not designated under Rule 8.130 and or 8.124 to be augmented and permitted. It is well established that this rule is to be construed liberally. (*People v. Brooks (1980) 26 Cal.3d 471, 484*)

Appellant is requesting Augmentation of the record because Appellant has just received additional documents that have a direct bearing on the issues being heard on this appeal. The attached records just became available and are essential as they will aid the Court to determine the full extent of fraud involved at Children and Family Services and the additional arrearages owed by Respondent.

Children and Family Services has committed more fraud by not collecting current court ordered support, granting false credits for Respondent by accepting third party checks (which included Janus Fund,

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Exxon, and Mobil as support paid to Appellant), and then conducted false audits for Respondent (manipulated records with false wage assignments in new audit to cover- up false credits previously given by audit)

I, Appellant just figured out from the new audit received which included an Individual Payment Report (See exhibit "A") and from previously issued distribution checks sent to me (See exhibit "B") that there are fraudulent wage assignments being included in this new audit by Children and Family Services because the distribution checks show Respondent is in arrears but then in the new audit for the very same month now Respondent is falsely shown as overpaid.

I, Appellant, Lorna Roos know from at least four distribution checks previously issued and received (See exhibit "B") that the checks clearly show and do not lie that Respondent was in arrears again, again, again but then Respondent was able to orchestrate an audit behind Appellant's back and have any arrears and interest owed wiped clean when needed (Respondent must have presented third party checks for credit as proof of support paid at these secret audits Janus Fund $20,000, Exxon $10,421, and Mobil $14,332.90). Now the new audit fraudulently portrays Respondent has over paid in the very same months when Respondent was in arrears on the distribution checks previously sent. The auditor must have inserted fraudulent wage

assignment credits to cover up the previous false credits given on Janus Fund, Exxon, and Mobil in prior audits at the department of Children and Family Services.

See Exhibit "B"

1.) Check 6-23-06 shows Respondent in arrears
2.) Check 4-18-07 shows Respondent in arrears
3.) Check 1-16-08 shows Respondent in arrears
4.) Check 1-30-08 shows Respondent in arrears

See Exhibit "C"

Simple Report Audit from Feb. 2010 (fraudulent Audit performed whereby Children and Family Services list false wage assignments to now reflect over payment in months when Respondent was in arrears)

1.) Month of 6-08 fraudulent audit Simple Report shows Respondent is now falsely overpaid by $24,691.34 when previously issued distribution check number 0000700122 from 6-23-06 shows Respondent was in arrears again.
2.) Month of 4-07 fraudulent audit Simple Report shows Respondent is now falsely overpaid by $32,170.34 when previously issued distribution check number 0002957222 from 4-18-07 shows Respondent was in arrears again
3.) Month of 1-08 fraudulent audit Simple Report shows Respondent is now falsely overpaid by $41,405.88 when previously issued check number 0004823377 from 1-16-08 and check number

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0004909070 1-30-08 shows Respondent was in arrears again.

See Exhibit "A"

Individual Payment Report
Apparently, there are some false wage assignments. Appellant believes this would have been easy for Respondent to commit this kind of fraud at his employer as he is a part owner of Stone and Youngberg LLC. See wage assignments for 7-28-05, 8-29-05, 8-29-05, 9-30-05, 10-31-05, 10-31-05, 11-30-05, 11-30-05, and 2-28-06 to make sure they are indeed valid.(If all these wage assignments were truly collected there would be no need for Respondent to send a payment in for $710.12 just recently as there would be cash in the account for more than this amount. Appellant believes an outside auditor will find at least 3 possibly 4 payments credited for Respondent as a wage assignment received when the money was never received from Stone and Youngberg)

There are additional documents attached from a Victor Carberry (See Exhibit "D" letter with attachment "a" & "b") Which were sent after Appellant and her twin sister, Leslie Reilly were prevented from viewing any records on case number BD 202859 on March 4th, 2010 at Children and Family Services by Ana Pedrosa and Edna Camero.

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Appellant was told at the meeting that occurred on March 4th, 2010 that Children and Family Services was standing behind their fraudulent audit and that Appellant would be receiving the back- up requested (actual checks) and a letter to this effect. Also, Appellant was informed that Children and Family Services would not keep records beyond five years all while Appellant is being denied access to her records.

As previously mentioned in the motion to augment filed on 3-16-2010 there are interest checks and prior months support payments fraudulently being applied as support payments now for month of April 2004. (See exhibit "D" with attachment "B") from Children and Family Services as Payments received vs. Payments issued CK # 7606488 for $10,270 is for Feb. support payment, Ck # 7651754 for $4,152.88 is for interest on arrears owed, CK # 7714904 for $10,270 is for March support payment, and Note: of NSF for Feb. 2004 all these payments issued are being fraudulently included in this new audit when they are for prior months support and or interest payments on arrears. Children and Family Services are attempting to bury false credits given on Janus Fund, Exxon, and Mobil. Children and Family Services refused to give the actual checks because they would reveal the truth so they have prepared another fraudulent document in support of the new fraudulent audit performed in Feb. 2010. In addition, Respondent is getting credit as payments received of $20,504 when this amount is for the

months of Feb. and March support payments made which should not be included in Respondent's total for month of April in the amount of $43,441.88. Respondent is fraudulently getting credit for an additional $20,540 in the month of April.

At no time has Respondent ever paid any arrears in the amount of $20,504 to Appellant. Respondent was able to get every arrears case pushed into audit and then wiped clean. Respondent never paid arrears in the amount of $924,000. + Also, Respondent owes new arrears in the amount of $55,000 + interest. Respondent doesn't pay support in the months in advance of the outcome of these fraudulent audits. Respondent never pays the months of support that were missed in their entirety see months 3-04,3-06,4-06,2-07,11-07,11-08, and 11-09. (See exhibit "C") Respondent must have presented third party checks to audit (Janus Fund $20,000, Exxon $10,421, and Mobil $14,332.90) because Children and Family Services would not be knowingly participating in attempting to bury these previous false credits given by now assigning false wage assignments for Respondent fraudulently using Stone and Youngberg too unless they knew of the previous false credits given to Respondent.

Respondent has become a serial abuser by throwing the case into audit. Respondent manipulates the audits to get false credits and then doesn't pay his court ordered support all behind Appellant back.

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This abuse has continued for years by Children and Family Services granting false credits (theft by audit), not notifying Appellant of these fraudulent audits, not supplying Appellant with records, and or orders to prove the fraud earlier.

Not only is augmentation of the record necessary, it will not prejudice any party.
For the above reasons the Court should order the record to be augmented on appeal by including this motion with

Exhibit "A" Individual Payment Report (showing fraudulent wage assignments)
Exhibit "B" Actual distribution checks showing the arrears
Exhibit "C" Simple Audit Report showing false overpayment for Respondent
Exhibit "D" letter from Victor Carberry with attachments "A" & "B" sent from

Children and Family Services

This motion is made in good faith for the reasons set forth above and not for the purposes of any delay.

I declare under penalty of perjury that the foregoing is true and correct.

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Executed on this 23rd day, of March 2010, at Los Angeles, CA

"s/"
Lorna Roos In Pro Per

DECLARATION OF APPELLANT, LORNA ROOS IN SUPPORT OF MOTION TO AUGMENT RECORD ON APPEAL DATED 3-22-2010

I, Lorna Roos, Appellant just received a letter with attachments "A" & "B" on 3-17-2010 from Children and Family Services dated 3-10-2010 from a Victor Carberry (see exhibit "D") that further demonstrates the magnitude of fraud being committed at the audit department in Children and Family Services on case number BD 202859.

I, Appellant was able to figure out from the new audit received which included an individual payment Report (See exhibit "A") that there are fraudulent wage assignments being included in the audit by Children and Family Services. (Which were supposedly issued on behalf of Respondent from Stone and Youngberg that he just so happens to be a partner of Stone and Youngberg LLC) Respondent was in arrears on distribution checks previously sent to me, Appellant. The previously sent distribution

checks prove the new audit has false wage assignments because the new audit fraudulently shows Respondent is now overpaid in the very same months that Respondent was previously in arrears as stated on the distribution checks. (See exhibit "B") Children and Family Services is actively covering-up prior false credits (Janus Fund $20,000, Exxon $10,421, and Mobil $14,332.90) given for Respondent by audit by now inserting false wage assignments as proof of payment for Respondent in this new audit. The criminal behavior at Children and Family Services needs to be stopped immediately.

In addition,(See exhibit "D" with attachments "a" & "b") just sent from Children and Family Services they are fraudulently including payments received and paid from prior months before the audit date of April 2004. This makes the audit invalid as the auditor clearly knows from basic accounting principles this is fraud. See Attachment "A" from Children and Family Services which is included in (See exhibit "D") there is a credit from prior month of March 2004 of $20,504 fraudulently included in April's total of $43,441.88 as payment received from Respondent. Also, in (See exhibit "D") there is Attachment "B" from Children and Family Services which shows false credits given which are for the months of Feb. and March support payments paid in month of April. These payments should not be included in this audit but are now fraudulently being applied as support payment for the month of April

when they are for the prior months of Feb. and March 2004 support owed. Note: None of the distribution checks issued prior to April and or April's checks issued are for arrears of $20,504 as there were no arrears ever paid. Appellant has never received any arrears owed prior to April 2004 of over $924,000+ as Respondent got the arrears cases wiped clean including the interest payments owed as well. Appellant never received the arrears of $20,504 either.

I, Appellant, Lorna Roos and my twin-sister, Leslie Reilly met with Ana Pedosa and Edna Camero on March 4th, 2010 at Children and Family Services offices in City of Commerce because I, Appellant, was promised that I would be able to view my records once there. I, Appellant informed Ana and Edna that my sister and I are both disabled but would make the drive because I was in need of the missed support owed $55,000 plus interest. However, after driving over 3 hours from Santa Barbara I was then informed by Ana and Edna that they had no records in Commerce that another department in Sacramento had my records on case file BD 202859. Next, Ana and Edna from Children and Family Services informed me they were standing behind this latest fraudulent audit whereby Respondent had already sent in a check for $710.12 so no arrears were due.

Furthermore, I was informed that Children and Family Services only have to keep records going back

five years. At this meeting Ana and Edna refused to let me view any records in my file and or make copies of any records backing up the latest fraudulent audit showing the proof of payments received and or paid (checks). I, Appellant was handed a minute order stating that Mr. Mike Roos owed arrears of only $20,504 as of March 31, 2004 on the arrears case of over $924,000+ but both ladies refused to show how any proof of payment was received any check and or payment received from Mr. Mike Roos on these arrears owed as none was ever paid to me.

I, Appellant, was told they did not have access to this information so they would send a breakdown later showing the actual checks received as payment from Mr. Mike Roos which I still have not received.

At this meeting it became apparent that Ana and Edna were only interested in explaining that no checks were credited outside the court trustee as payments received on prior audits. Also, they explained there were credits possibly given on wage assignments from Stone and Youngberg when no money changed hands but they couldn't do anything about it as they were told to give credit for these wage assignments as paid when the monies were coming directly from Respondent, Mike Roos. This made no sense at that time. At this meeting we were told no wage assignments are currently in place at Mr. Mike Roos' employer Stone and Youngberg which is very alarming.

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Additionally, Ana and Edna claimed to have just learned of a stop payment check from Feb. 2004 account from Ms. Allen as they were told that morning the difference in the amounts paid and received in the latest fraudulent audit completed in Feb. 2010 dated from only April 2004 but was now affected by an NSF from Feb. 2004 before the audit date. This made no sense either. The new fraudulent audit apparently could not bury all the false credits previously credited in prior audits (Janus Fund, Exxon, and Mobil) whereby there was now a $10,270 difference. The NSF check from Feb. 2004 which was before the audit date and should not be included in the audit was the best explanation they could come up with.

Appellant and her twin sister got the feeling that Ana and Edna were interested in only knowing what they had evidence regarding false credits given and even tried to keep Appellant's audit paperwork sent by a Ms. Beverly Morales showing the wage assignments (Apparently fraudulent) credited for Respondent, Mr. Mike Roos by Children and Family Services and Stone and Youngberg.

I, Appellant, Lorna Roos never received support in the months prior to these secret fraudulent audits being performed. Whereby Respondent already knows he has enough false credits being credited through audit so Respondent doesn't pay support in the months in advance of the outcome of these audits. Respondent is never put in jail for not paying

his court ordered support when Respondent is in arrears of over $2,500 prior to the audit being performed. Each time case number BD 202859 is put into audit Appellant is not notified this is happening by Children and Family Services. Respondent learned how to throw his arrears cases into audit and then manipulate the audit so no arrears are owed. Appellant has been harmed over and over again because of these fraudulent audits performed. The employee's from Children and Family Services have been extremely rude and abusive with tone and language. I, Appellant, Lorna Roos want everyone and anyone who has touched my file and or case number BD 202859 at Children and Family Services to be prosecuted to the full extent of law. Also, the fraudulent wage assignments need to be investigated as well and the back- up records should be requested immediately from Stone and Youngberg. The augmentation request concerns documents which are regarding the issues of this appeal fraud at Children and Family Services (theft by audit) and should be part of the record. Additionally, the augmentation should not cause a delay in this appeal as the documents are attached.

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Dated: March 23rd, 2010

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,

"s/"

Lorna Roos

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COURT OF APPEAL, SECOND APPELLATE DISTRICT
DIVISION THREE
STATE OF CALIFORNIA

Lorna Roos	) Appeal No. B216438
Petitioner and Appellant	) Superior No. BD 202859
v.	) Motion to take
	) Judicial Notice
Michael Y. Roos	) to take evidence
	) on appeal
Respondent	)

Appeal from Los Angeles Superior Court, Judge Rudolph Diaz and Judge Kenneth Black

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MOTION TO TAKE JUDICIAL NOTICE AND PROPOSED ORDER

Pursuant to rule 8.252 of the California Rules of Court, and to Evidence Code sections 452, and 459, Appellant requests this Court to take Judicial Notice to take the evidence ATTACHED, mistakenly presented in unopposed Motions to Augment, The attached evidence subpoenaed court records and state agency records need to be a part of the appellate record; Wrongly Sealed Subpoena showing maker and off-set on the $531,561 from Imperial Bank, Copy of Charles Schwab account statements LA 7623-4155 & 9069-2761 from subpoena, Copy of the fraudulent simple audit report from DCSS, distribution checks showing

arrears from DCSS, interest checks from DCSS (warrants), payments received v. payments issued along with individual payment history from DCSS, and distribution list statement from DCSS as all these documents clearly prove the audit DCSS are aiding and abetting Respondent by fraudulently manipulating records to show Respondent is current on support payments when Respondent is in arrears of over a million dollars from the original order from 1994. This motion is made on the grounds that the documents attached are relevant and vital to the undisputed facts and would resolve issues raised on this appeal to avoid a miscarriage of justice. This request for Judicial Notice is based on the following points and authorities, declaration of Lorna Roos, and attached documents.

Respectfully submitted, "s/"

LORNA ROOS IN PRO PER
1482 Valley Rd. #305
Santa Barbara, Ca. 93108 (805) 845-8395

MEMORANDUM OF POINTS AND AUTHORITIES

MOTION TO TAKE JUDICIAL NOTICE
TO ALLOW APPELLANT TO RECIEVE
FULL AND FAIR APPELLATE REVIEW

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California Rules of the Court, rule 8.252 provides the means for Judicial Notice on appeal. The rule provides in subdivision (a) (2) that the motion must state:

(A) Why the matter to be noticed is relevant to the appeal;

(B) Whether the matter to be noticed was presented to the trial court and, if so, whether judicial notice was taken by that court; and

(C) Whether the matter to be noticed relates to proceedings occurring after the order or judgment that is the subject of the appeal.

(Cal. Rules of Court, rule 8.252 (a) (2).)

Appellant is asking this Court to take Judicial Notice of the wrongly sealed subpoenaed court record on the $531,561 cashier's check showing the maker and offset from Imperial bank in the Superior Court by Judge Kenneth Black under case No. BD202859 (In which Appellant is requesting be unsealed immediately as new evidence proves this is an unadjudicated community asset), newly discovered evidence by Appellant from Charles Schwab subpoenaed court records which were fraudulently withheld from Appellant by the Superior Court in Judge Black's and Judge Diaz' courtroom proves Respondent failed to disclose multiple tax Identification numbers, trusts, defined benefit plan worth over a million three hundred thousand as of 2007 on Charles Schwab statement (copy of

subpoenaed court records), and new evidence sent to Appellant from the Department Child Support Services(official government source) regarding a fraudulent audit simple report dated Feb. 2010 shows Respondent has been given false credits as support paid to Appellant whereby the Department of Child Support Services are now aiding and abetting Respondent by manipulating the records to cover-up fraud.

Satisfied subpoenaed court record from Imperial bank subpoena which was wronged sealed showing maker and off-set of $531,561 un-adjudicated community asset (AA390)

This Court may properly take Judicial Notice that the sealed subpoena was wrongly sealed as when the Superior Court Judge Kenneth Black sealed the subpoena the Court relied on a false claim made by Respondent that this money of $531,561 belonged to Respondent's mother as her separate property.

In addition, Respondent's mother never objected to the subpoena being satisfied, failed to appear for her scheduled deposition, and or refused to appear at Court to protect the false ownership claim made by Respondent on the $531,561.

Also, Judge Black fraudulently put Appellant's In Contempt charges filed on this matter off-calendar and refused to hear them. Respondent refused to

turn over any records and or tax-returns to verify he was indeed telling the truth at this time when subpoenaed to do so. Respondent had falsely claimed during the divorce that his mother owned the interest in Commerce Casino and that the $531,561 was a tax-free dividend check to his mother as her separate property. Appellant was denied discovery on this check for $531,561 because it was information from a third party false claim mother's separate property and at that time Appellant could not prove the $531,561 was a marital asset.

However, Appellant discovered new evidence (K-1 form from Commerce Casino) from subpoenaed information at the courthouse on 4-1-08 at a higher support order hearing that Respondent owned an interest in the Commerce Casino.

Then, after visiting Respondents' mother's probate file and receiving a official probate record on Respondent's father on April 15th, 2008 showing Respondent's father died with no will and or probate, Appellant not only discovered Respondent failed to disclose he was a co-trustee of a trust but that the trust was a sham Trust, and the portrayal of having a rich mother was false. This concealed sham trust was used by Respondent to steal Appellant's and Appellant's twin-sister's separate property money and community assets from Appellant. Also, Appellant learned at this time the concealed sham trust owned the interest in Commerce Casino and the $531,561.

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Respondent failed to disclose he was a co-trustee of this sham trust on his final financial and falsely portrayed to the Court, he had a rich mother that was loaning, borrowing, and gifting money to the community estate and because of this fraudulent material fact Respondent was able to fraudulently procure many assets in the judgment. In addition, Respondent failed to disclose the trust as he knew the sham trust would not hold up to any scrutiny and had the trust been known during the divorce Appellant would have received discovery to the fraud committed and would have found the embezzled assets much earlier. Technically, the trust document should be null and void because Respondent listed his father as an original co- trustee (whereby Respondent's own father died with no will and or probate making the trust document fraudulent) to avoid prosecution with the Feds and to match Respondents false inheritance claim when the trust was fraudulently authored by Respondent after a brief separation from Appellant which was after his father's death and during the marriage to embezzle assets.

Respondent's parents never had the means to make an investment in the Commerce Casino. Respondent's parents lived on Social Security and the new evidence proves Respondent's father died with less than $10,000 dollars no probate no will as discovered by Appellant on 4-15-2008. Respondent failed to disclose the $531,561 was a community

asset and or asset of this sham trust which was set up during the marriage to divert assets and income.

So, Appellant immediately filed for a set aside motion on September 29th, 2008 for Judgment dated June 2nd, 2004 to be set aside in its entirety due to the lack of financial disclosure and false material facts given to the Court by Respondent; fraudulent concealment of assets, income, and fraud.

Also, Appellant learned of judicial misconduct, which was discovered at this time, whereby Appellant discovered her original written trial briefs (requested testimony to be put in writing by Judge Kenneth Black) were fraudulently not even considered and or made part of the record as they are not listed on the Court docket as received, that the imperial bank subpoena had indeed been satisfied showing the maker and off-set (Appellant was never told of this), and there would be no statement of decisions forth coming as requested in Appellants written trial brief and as promised by the Court because the Judgment from June 2nd, 2004 was based on fraud and concealment of records.

Unfortunately, Judge Rudolph Diaz put off hearing the set aside motion filed on Sept. 29th, 2008 until April 27th, 2009 and then, abused his discretion by denying the set-aside motion as lacking proof, when no reasonable Judge could come to this conclusion with all the clear and convincing evidence put forth in the original filing and case over-view filed with the Court in advance of the hearing on April 27th, 2009.

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Appellant has had to pay all her own costs, has been given no money for an attorney, has had to pay for the wrongly sealed subpoena court records, and is being precluded from presenting her case without the subpoenaed court records. Appellant is being denied basic due process rights to discovery because the Court has abused its discretion, concealed documents, and has relied on Respondent's false claims without any reliable third party evidence.

The Court now knows the $531,561 asset is a part of the community estate and is not mother's separate property as previously falsely claimed by Respondent, Whereby Respondent failed to disclose he was a co-trustee of a sham trust which needs to be adjudicated forfeited in its entirety. The subpoenaed information belongs to Appellant not the court. Appellant wants the sealed subpoenaed information showing the marker and off-set on the $531,561 immediately unsealed and made available as the information would give insight to the facts and help resolve the issues on this appeal without creating a manifest of injustice. If the subpoenaed information is not unsealed and made a part of the record on this appeal it would manifest a greater injustice as Appellant believes the $531,561 is settlement money on a car accident whereby her twin-sister is disabled, doesn't breathe properly, and has not received proper health care.

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Newly discovered evidence by Appellant from Charles Schwab account statements LA 7623-4155 & 9069-2761 (Subpoenaed records sent to the Court which were fraudulently withheld and concealed from Appellant. The newly discovered evidence of the Charles Schwab statements indisputably proves Respondent fraudulently concealed community assets and income from Appellant. Also, there are several undisclosed accounts at Charles Schwab, multiple undisclosed tax I.D. Numbers being used by Respondent, trusts, and a defined benefit plan which need to be adjudicated forfeited and further discovery needs to be granted for Appellant.)

The Superior Court failed to turn over the subpoenaed records from Charles Schwab to Appellant. In addition, the Superior Court ruled on support orders whereby Respondent failed to turn over valid tax-returns, did not report his true income, and committed perjury on all his income and expense statements submitted for these support orders. The evidence from Charles Schwab court records is essential to determine the true marital estate assets and true income because all support orders will need to be set aside and the Judgment in its entirety from June 2nd, 2004 as the Court orders and Judgment are now based on fraud. The Charles Schwab statements court records certainly prove Appellant's main issues on this appeal and without the inclusion of these statements there would be a

total miscarriage of justice as Respondent has procured fraudulent Judgments and support orders. As the Court has previously relied on false material facts submitted by Respondent and the Court has concealed and withheld these records from Appellant it is only fair that the statements are included in the appellate record and be considered on this appeal.

Fraudulent audit simple report from DCSS, distribution list statement from DCSS, interest checks from DCSS, individual payment report from DCSS, distribution checks showing arrears from DCSS proving fraud at Department of child support services.

The Department of Child Support Services fraudulently performed a simple audit report for Respondent on Feb. 2010 whereby they fraudulently manipulated the records for Respondent to show Respondent is current on support payments when Respondent has not paid support, has been given false credits on third party checks, and is in arrears of over a million dollars from the original order of 1994.

Appellant has not been allowed access to her records, has been prevented from participating in any of the audits performed at Department of Child Support Services, has been prevented from seeing any orders, has been denied a state hearing on the matter, has been treated with hostility on this matter, and has been denied any evidence proof of

support payments paid by Respondent. Respondent stops paying Court ordered support in advance of these audits being performed and is currently harming Appellant and the Children. Respondent should be in jail for not paying support, financially abusing Appellant through audit at DCSS, and for manipulating the records at Department of Child Support Services.

Fortunately, Appellant kept the previous records issued from the Department of Child Support Services Court Trustee (interest checks and distribution checks showing arrears from the state agency) and the Department of Child Support (distribution list statement, individual payment report from DCSS state agency), whereby this evidence now undisputedly proves that the audit department at Child Support Services are committing "theft by audit" and are now aiding and abetting Respondent by fraudulently manipulating records to cover-up fraudulent credits previously given to Respondent in this new audit just performed in Feb. 2010.

As Respondent is resting his case on the fact that Respondent alleges that the audit department of Child Support Services are performing correct audits, when this new evidence clearly proves otherwise that they are committing fraud, it is only fair the new evidence be made a part of the appellate record and it goes directly to the issues raised on appeal. Appellant requests all the documentary

evidence from the Department of Child Support Services which is attached to the enclosed motions to augment record dated March 18th, 2010 and March 26th, 2010 be considered on this appeal because the Court would avoid a miscarriage of justice.

The documents listed below are relevant to the resolution of the issues on appeal.
Exhibits:
A.) Sealed Subpoena Court records of subpoenaed information from Imperial Bank showing the off-set and maker of the $531,561 not attached at Court house, copy of subpoena information sent to Court house from Imperial Bank attached to motion to augment dated September 18th, 2009.
B.) Copies of Charles Schwab account statements from subpoenaed court records LA 7623-4155 & 9069-2761 copies attached. Also, copies are attached to motions to augment dated March 18th, 2010 and March 26th, 2010.
C.) Copy of fraudulent audit simple report from DCSS (state agency records) , distribution list statement from DCSS (state agency records) , interest checks from DCSS(state agency records), individual payment report from DCSS (state agency records), and distribution checks showing arrears from DCSS (state agency records) copies of documents are attached. Also, documents are attached to the motions to augment dated March 18th, 2010 and March 26th, 2010.

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Appellant requests that this Court take Judicial Notice of Exhibits "A" (sealed subpoena not attached) and "B" (copy of subpoenaed court records attached). These exhibits are from subpoenaed information sent to the Court and should be judicially noticed Under California Evidence Code section 452, we may take judicial notice of "[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy." The information contained in Exhibit C are official state agency documents published by the Department of Child Support Services of the state of California. The documents reflect a fraudulent audit was performed by DCSS in Feb. 2010, statement of distribution checks from DCSS, interest checks from DCSS, individual payment report from DCSS, and distribution checks showing arrears from DCSS.

In addition, the documents are from a government source and reflect that a state agency, the Department of Child Support Services is actively participating in fraudulently manipulating records on behalf of Respondent giving false credits as support paid to Appellant in excess of a million dollars from the date of the original order from 1994. (People v. Harris (1984) 36 Cal.3d 36, 48, fn.3 ["We take judicial notice of the federal census. (Evid. Code, 452, suds (b), (c), and (h).)"]; Diaz v. Kay-Dix Ranch, et al. (1970) 9 Cal. App. 3d 588, 596, fn. 6 ["The Court takes judicial notice of these statistics from an

official government source. (Evid. Code, 452 (h), 454)"]

CONCLUSION

For the foregoing reasons and reasons set out in the prior motions to augment dated September 18th, 2009, March 18th, 2010, March 26th, 2010, motion to reconsider filed April 8th, 2010, memorandum of points and authorities and declaration of Lorna Roos on this motion to take judicial notice, Appellant respectfully requests that the court take judicial notice of Exhibits A-C.

Dated: April 12th, 2010

Respectfully submitted,

"s/"

Lorna Roos In Pro Per

Declaration of Lorna Roos, Appellant in support of Motion to take Judicial Notice to take evidence on appeal

I, Lorna Roos, declare as follows:

I am a layman and am not an attorney. I just discovered the evidence attached to the motions to augment dated September 18th, 2009, March 18th, 2010, and March 26th, 2010 should have been filed with the court of appeals as motions to take judicial notice to take evidence on appeal. I am apologizing for any inconveniences caused as I was poorly

advised by an appeals clerk to augment the record on appeal with motions to augment.

I had no idea I was a making a mistake by incorrectly filing motions to augment when they should have been judicial notice. It wasn't until I read the order from March 29th, 2010 and after the filing of a motion to reconsider this order on April 8th, 2010 that I learned the evidence attached to these motions to augment needed to be put on the record with a motion to take judicial notice to take evidence on appeal.

I would like the subpoenaed court records from Imperial bank showing the maker and off-set of the $531,561 included in the appellate record as the court now knows from the newly discovered evidence presented in the set-aside motion that this is a community asset not Respondent's mothers separate property as falsely claimed by Respondent. The subpoenaed court records are relevant to the issues raised on appeal.

In addition, the Court has fraudulently withheld subpoenaed court records from Appellant on Charles Schwab accounts. Appellate just learned from a bill sent from Charles Schwab that Charles Schwab had satisfied the subpoena sending the records to the court house whereby both Judge Kenneth Black and Judge Rudolph Diaz both failed to turn over these records to Appellant. Appellant requests these statements be included in the appellate Court record

as the records are relevant to the issues raised on appeal and it would avoid a miscarriage of justice.

The Charles Schwab statements prove Respondent has been unfairly hiding community assets and income from Appellant and that Respondent has been using multiple tax identification numbers and trusts that he failed to disclose to the Court whereby Respondent was able to procure fraudulent support orders and a judgment dated June 2nd, 2004 in the divorce because of the fraudulent concealment of assets, income, and material facts.

Also, Appellant should not have to wait any longer for justice, when the court fraudulently concealed these records from Appellant. Respondent should immediately forfeit the undisclosed accounts at Charles Schwas to include the defined benefit plan. Appellant is going to need a proper freezing order on all of Respondent's assets until the true marital estate can be accessed by a forensic accountant, which should be ordered on behalf of Appellant. Appellant requests all fees and costs on this case be awarded for Appellant because of Respondent's fraudulent concealment of assets, income, and material facts. Appellant would like to request the fraudulent judgment dated June 2nd, 2004 and all support orders be set aside in their entirety as they are now based on fraud. In addition, the court should order Respondent's tax returns be verified by the I.R.S., Appellant will need money for attorney, and will need full discovery

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Lastly, Appellant is asking the Court to include the fraudulent simple audit report from the Department of Child Support Services along with the previous sent records from Child Support Services, which include distribution checks showing arrears from DCSS, interest checks from DCSS (warrants), payments received v. payments issued along with individual payment history from DCSS, and distribution list statement from DCSS as all these documents clearly prove the audit Department of Child Support Services are aiding and abetting Respondent by fraudulently manipulating records to show Respondent is current on support payments when Respondent is in arrears of over a million dollars from the original order from 1994. The Department of Child Support Services are actively covering – up false credits given to Respondent as support paid to Appellant through their audit Department (which includes third party checks and checks from Exxon $10,421 and Mobil $14,332.90).

The distribution checks previously issued from DCSS do not lie as they clearly show Respondent was in arrears but now in this new audit Simple report from Feb. 2010, Respondent is fraudulently shown to be overpaid in the same months as Respondent was in arrears as evidenced by the distribution checks previously issued from DCSS.

Examples:

1.) Distribution check from DCSS dated 6-23-06 shows Respondent was in arrears, now in new audit

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simple report dated Feb. 2010 it shows Respondent is overpaid by $24,691.34 for the same month of 6-06. 2.) Distribution check from DCSS dated 4-18-07 shows Respondent was in arrears, now in new audit simple report dated Feb. 2010 it shows Respondent is overpaid by $32,170.34 for the same month of 4-07. 3.) Distribution check from DCSS dated 1-16-08 and dated 1-30-08 shows Respondent was in arrears, now in new audit simple report dated Feb. 2010 it shows Respondent is overpaid by $41,405.88 for the same month of 1-08.

In addition, Child Support Services is now applying previously issued interest checks on arrears owed as false credit for Respondent as support paid to Appellant in new simple audit report. Also, in this new audit performed from 4-2004 to present they are fraudulently including the prior months support payments from 2-2004 and 3-2004 as support paid for month of April. Respondent paid Feb and March support payments late and they were received in the month of April at DCSS. DCSS is fraudulently manipulating the records as these payments were made late and are for months of Feb. and March not April so, why are DCSS applying the payments to Aprils support due and applied to the arrears owed. See interest checks, distribution checks, DCSS support payment received v. payments along with individual payment history issued as DCSS is giving false credit as support paid for Respondent on:

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1.) Check # 7606488 for $10,270 for April when this check is for Feb support,
2.) Check # 7651754 is being applied to Aprils support due when this check for $4,152.88 is for interest payment on arrears owed,
3.) Check # 7714904 for $10,270 is being applied for Aprils support due when this check is payment for March support due,
4.) Also, a alleged NSF check is being accounted for in this audit as payment received for April when it is for the month of Feb. on an interest check previously issued see warrant S 7325387, which is fraudulent too.

As all these checks are being fraudulently manipulated and applied as payments towards Aprils support payments due and the false arrears of $20,504(which was never paid either). Appellant has never received any payments of arrears due as they have all been wiped clean by audit at DCSS, when the true arrears due totals over one million dollars from 1994 original order that has never been collected by DCSS.

At no time has DCSS allowed Appellant to participate in these fraudulent audits "theft by audit" and or let Appellant have access to her records. The Department of Child Support Services has accepted this latest fraudulent audit as valid and is actively participating in harming Appellant and

the children. This injustice needs to be stopped immediately and DCSS documents need to be

included in the appellate record as they address directly the issues on this appeal of "theft by audit". As Respondent claims in his RRB that DCSS is performing correct audits it is only fair that this motion is granted to take judicial notice to take evidence in that is vital and necessary for the court to have a proper appellate record on appeal to avoid a complete miscarriage of justice.

Again, Appellant apologizes for any inconvenience. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated 4-12-2010

Respectfully submitted,

_____

Lorna Roos

Exhibit "A"

(Not attached wrongly Sealed Subpoena) Attached is evidence of subpoena being satisfied by Imperial Bank showing maker and off-set of cashier's check for $531,561, which is a un-adjudicated community asset.

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Exhibit "B"

Copy of subpoenaed undisclosed Charles Schwab Statements LA 7623-4155 and 9069-2761 attached, which were fraudulently withheld from Appellant by the court. The court records evidence reveal Respondent has been hiding community assets and income. In addition, Respondent is using multiple tax identification numbers, trusts, and pension accounts (defined benefit plan) to hide marital assets and income.

Exhibit "C"

Copy of the fraudulent simple audit report from the Department of Child Support Services along with the previous sent records from Child Support Services, which include distribution checks showing arrears from DCSS, interest checks from DCSS (warrants), payments received v. payments issued along with individual payment history from DCSS, and distribution list statement from DCSS as all these documents clearly prove the audit Department of Child Support Services are aiding and abetting Respondent by fraudulently manipulating records to show Respondent is current on support payments when Respondent is in arrears of over a million dollars from the original order from 1994.

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Certificate of Interested Parties

Appeals Case #B216438 Roos v. Roos
(Certificate of Interested Parties)
ATTACHMENT "2"

(1) Tom Girardi Tom Girardi (accusations of Insurance Fraud)

(2) Mr. John Karns (their law firm, authored the fraudulent Trust document- "Karns and Karabian")

(3) Mr. Walter Karabian (their law firm, authored the fraudulent Trust Document - "Karns and Karabian")

(4) Mr. Walter Lack (close partner and business associate of Tom Girardi)

(5) Mr. David Kenny (author of the fraudulent Will and Trust)

(6) Don Levin (Money laundering of embezzled funds with Mike Roos and Mike Roos' mother including DSL construction and First Regional Bank)

(7) Rick Marcus (his CPA firm Goren, Marcus, Masino, and Marsh aided in concealing and embezzling assets and income)

(8) Frederick Muller (Authored fraudulent starker exchange agreement while at Grayson, Givner, Booke, and Silver)

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(9) Arnold Forde (collusion and concealment of sham loans with Mike Roos and Mike Roos' mother/ money laundering)

(10) John Burton (concealed loan with Mike Roos)

(11) Melissa Roos Walker (in possession of embezzled assets through sham trust).

Additional Information Regarding Conflicts

Request for Change of appeal from division three to another division because there is reasonable basis to believe that existing judges may not be able to be impartial. Appellant wishes to obtain Judges to hear the appeal who have the ability to be fair, impartial and unbiased, and where there are no questions about conflict of interest or the appearance of impropriety.

The crux of this entire case is allegations of fraud and embezzlement by Mike Roos. Importantly, Mike Roos has not acted alone. He has had help from others in committing these criminal acts. The criminal acts of these other individuals are also at risk of exposure and these individuals have substantial risk of potential criminal prosecution for their behavior.

It has just come to light that some of Justices of the Appeals Court have relationships with individuals who are accused of aiding Mike Roos in the fraud and embezzlement. The charges against these individuals are serious and these individuals have

great incentive to use their influence and personal relationships to keep their criminal behavior from being exposed in court. These individuals include Mr. Tom Girardi (accusations of Insurance Fraud), Mr. John Karns and Mr. Walter Karabian (their law firm, authored the fraudulent Trust Document - "Karns and Karabian"), Mr. Walter Lack (close partner and business associate of Tom Girardi), Mr. David Kenny (author of the fraudulent Will and Trust), Don Levin (Money laundering of embezzled funds with Mike Roos and Mike Roos' mother including DSL construction and First Regional Bank See Exhibit "A"), Rick Marcus (his CPA firm Goren, Marcus, Masino, and Marsh aided in concealing and embezzling assets and income), Frederick Muller (Authored fraudulent starker exchange agreement while at Grayson, Givner, Booke, and Silver), Arnold Forde (collusion and concealment of sham loans with Mike Roos and Mike Roos' mother/ money laundering), John Burton (concealed loan with Mike Roos), and Melissa Roos Walker (in possession of embezzled assets through sham trust) .

Appellant is sincerely requesting an unbiased courtroom where ALL valid evidence is allowed to see the light of day. To date, this has been prevented without valid reasons and has resulted in a miscarriage of justice. Judges who have relationships with individuals connected to this case should validly be disqualified.

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A critical piece of evidence that implicates Mr. Tom Girardi in both insurance fraud and embezzlement is payment of $531,561 in April of 1996. The payment is believed to be from an insurance company as payment to Leslie Stevenson Reilly from a car accident where she suffered a broken neck. The payment was fraudulently stolen and embezzled to the mother of Mike Roos by Tom Girardi and Mike Roos. This evidence that will conclusively reveal the criminal behavior of Mr. Tom Girardi (who represented Leslie Stevenson Reilly in the car accident) in fraudulently transferring the $531,561 payment to the mother of Mr. Mike Roos. Evidence of this payment was originally subpoenaed by Appellant and satisfied by Imperial Bank in December 2000 (revealing the maker of the check and the offset). This evidence was improperly sealed by the Judge on the case (Judge Black) under fraudulent testimony by Mike Roos, and by what is believed to be pressure and improper influence by Tom Girardi. [Exhibit "B"] This critical evidence has never seen the light of day. It is smoking gun evidence of fraud and embezzlement and no valid reason has EVER been presented to keep it sealed. The sealing of this important evidence was judicial misconduct by Judge Kenneth Black. His misconduct has prevented crucial evidence from being presented in court that would reveal the true source of funds of assets in dispute, and criminal behavior by Mike Roos and Tom Girardi.

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Both Mike Roos and Tom Girardi are desperate to keep this evidence from coming to light. It is believed that a full investigation on the matter of insurance fraud committed by these two individuals will reveal additional criminal behavior. Shortly after the evidence was subpoenaed (that lead to the discovery of this $531,561 of embezzled assets), an armed gunman broke into Appellants home in February 2000 in the early morning hours, and a narrow escape was made. [Exhibit "C"]

One important aspect alleged by Appellant in this case, is that powerful and influential people have been able to cut back room deals with Judge Black, and other federal and state agencies (such as with the DMV, LAPD, and FBI agent L.J. Connelly) to prevent smoking gun evidence from seeing the light in an open courtroom.

One example of this is presented in the following three paragraphs.

In what appears to be a deliberate act, a serious rear-end collision occurred into the car occupied by Appellant and Leslie Stevenson Reilly while they were stopped at a stop-light (July 28th, 1998), creating very serious life-threatening injuries. The driver of the car (who is now the wife of Tom Girardi) was Ms Erika Giovanisci. She produced a false driver's license at the scene by the name of Bitty Schram. [Exhibit "D"] Mr. Tom Girardi immediately

came to Appellant and Leslie Stevenson Reilly after the crash and signed them up for legal representation on the accident (without being called) and without revealing that he had a personal relationship with Ms Erika Giovanisci.[Exhibit "E"] Mr. Girardi subsequently filed false paperwork on the intentional car crash with the superior Court, fraudulently claiming that a Leslie Schram was the driver of the vehicle, and forging a completely false date of the accident. [Exhibit "F"]

Shortly after the armed gunman broke into the house of Appellant (listed above), an FBI agent (LJ Connelly) advised Appellant to check on all outstanding lawsuits in order to try to better understand who had motive to cause harm. It was only by checking Superior Court records was it revealed that Tom Girardi had filed false information with the court. Leslie Stevenson Reilly immediately confronted Tom Girardi with evidence of false information being submitted to the court. After the confrontation, Tom Girardi immediately terminated the client-attorney relationship, and rapidly married Ms Erika Giovanisci within a few days, in what appears to be a deliberate action to provide Erika Giovanisci with immunity from any legal attempt to cause her to testify against him.

Erika Giovanisci (the now wife of Mr. Tom Girardi) subsequently fraudulently renewed a drivers license in the name of Bitty E. Schram with the photo of Erika Giovanisi on July 10th, 2000 at the Hollywood

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DMV (where Tom Girardi has contacts) in an attempt to fraudulently pass herself off as Bitty E Schram. This occurred just days before a scheduled deposition regarding the deliberate car crash. [Exhibit "G" reveals the photograph of Erika Giovanisci on the renewal drivers license of Bitty Schram]. A detective from Northeast police department LAPD by the name of Tony Stevenson [PH 1-213-847-4272] subsequently requested thumbprint verification from the DMV regarding the true identity of the person on the picture of driver's license in the name of Bitty E. Schram. He also requested thumbprint verification of the driver's license of Erika Giovanisci (now Erika Girardi) in order to compare the two. To-date the DMV has refused to provide this thumbprint verification to Detective Stevenson. [See Exhibit "C" above] This evidence would convincingly reveal the fraud perpetrated by Erika Giovanisci and Tom Girardi in the staged car crash. Why the thumb print verification was never provided to Detective Stevenson? Who prevented this? Why? The most logical answer is that Tom Girardi pulled strings and prevented it.

The reason that this request of the court to change divisions is due to information received last week at the memorial service of Richard Traweek. Mr. Traweek was a former employer of Appellant and Leslie Stevenson Reilly (for six years) who was

murdered by an unknown gunman on Oct. 26th, 2009. [Exhibit "H"] Mr. Traweek was the founder of Traweek Investments a fully licensed securities brokerage firm. The memorial was held on November 18th, 2009 at Bel-Air Country Club, and at the memorial, an individual who wants to remain confidential, communicated information to Appellant that Mr. Tom Girardi "has some very dear friends on the appeals court Division three" where Appellant's case is being heard.

It is worth stating that Mr. Richard Traweek, testified on behalf of Appellant in the child custody case where Mike Roos subsequently lost all rights to his children. At the time of the child custody case Mr. Richard Traweek made statements that he feared for his life in testifying against Mike Roos. Additionally, Mr. Richard Traweek was also a former client of Mr. Girardi's (at Crane and Girardi) until a bitter dispute occurred that resulted in Mr. Traweek leaving the firm to be represented solely by Mr. Dick Crane at his new firm. As a result of these two disputes both Mike Roos and Tom Girardi are believed to be persons-of-interest in the murder of Mr. Richard Traweek. This can be verified by contacting Detective Michael Pelletier at LAPD West Los Angeles Homicide Division at PH [310-444-1520].

Appellant believes and alleges that discovery in many areas was improperly denied and prevented by judicial misconduct that was driven by back room

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deals cut by self interested individuals who were acting in collusion in criminal activities perpetrated by Mike Roos. One such area includes the potential embezzlement and concealment of a commission paid in 1997 on the sale of Sam Gilbert's forfeited 36.45% interest in the Bell Gardens Bicycle Club. Appellant was wrongfully denied discovery by Judge Kenneth Black during the divorce proceedings and prevented from knowing if a commission was ever paid. The Bicycle Club was seized by the government in a Rico case and the government took control of the club in Nov. 1993 and tried to sell the asset in 1994 via the United States Marshall Service / Resolution trust company. Leslie Stevenson Reilly acquired the data and information from the United States Marshall Service and solicited investors in 1994. Appellant and Leslie Stevenson Reilly being registered brokers sent out packages to about dozen investors and learned Richard Traweek was also actively seeking investors to participate in the bidding process being taken under seal in July/August 1994. Appellant and Leslie Stevenson Reilly originally pitched Tom Girardi on investing in the Bicycle Club in July 1994. Then, Tom Girardi's partner and very dear friend Walter Lack approached the United States Marshall Service directly in November 1995 to purchase the interest in Bicycle Club. Appellant was told no sale occurred and no commission was paid by George Hardie and Harry Richard (the successor trustee) who were both General Managers of the club.

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However, Appellant has just learned that apparently Walter Lack formed an LLC and eventually purchased the Sam Gilbert interest in the Bicycle Club sometime in 1997. Appellant and Leslie Stevenson Reilly never received a commission and or any compensation for this sale but suspect Mr. Mike Roos did.

Appellant is very concerned there might be conflicts of interest involving some of the Justices because of Mr. Tom Girardi. After being warned at the memorial service of Mr. Dick Traweek, Appellant, Lorna Roos , did research on the internet looking for potential links and or conflicts of interest involving the Justices assigned to Division three. This research appears to reveal conflicts involving at least two of the Justices on the division three of the Appeals Court and Mr. Tom Girardi. [Exhibit "I"] These include Justice R. Aldrich and Justice Walter Croskey. Both have appeared on Mr. Tom Girardi's self-serving radio show that promotes all these individuals as "Champions of Justice". This is simply one of many tactics that Mr. Tom Girardi has used to ingratiate himself to judges and form strong personal relationships. Additional tactics used by Tom Girardi to develop relationships with judges include paid Mediterranean cruises, memorable lunches at PDC, and giving expensive Christmas gifts.

A critical issue in this case is accusations of judicial misconduct by both Judge Black and Judge Diaz that

may be due to conflicts of interest and improper influence by individuals such as Mr. Tom Girardi.

Recent actions by Justice Patti Kitching appear highly improper and raise the same suspicions. These include:

1. Suspiciously DEFERRING the ruling on a Motion to Augment record filed by Appellant on 9-18-09 to include the improperly sealed evidence regarding the embezzled $531,561 assets. It is important to state that Respondent Mr. Mike Roos never filed ANY paperwork opposing the granting of the motion. Given the fact that the motion was not opposed, why has ruling on this important evidence been delayed?
2. The improper granting of a second extension for Respondent to file a brief – when Respondent was already in default to file brief, and when Respondent failed to state ANY reason for the default. Failing to state a reason for default and good cause for extension is a matter of law that legally prevents the granting of an extension.

Lastly, it's important to state that Mr. Mike Roos, Mr. John Karns, and Mr. Thomas Girardi are extremely close friends and there is a bit of "honor among thieves" at work here. They all play golf together on the weekends at Lakeside Country Club where each are members. Karns and Karabian

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created the fraudulent Will and Trust, and subsequently represented Mr. Mike Roos in his mother's fraudulent probate estate proceedings where Mr. Mike Roos took possession of the embezzled assets.[Exhibit "J"] Mr. John Karns was paid $25,000 in May of 1996 out of community assets that Appellant believes is evidence of payment for legal services rendered in the creation of the fraudulent Will and sham Trust (created on June 13th, 1996) that were subsequently used to embezzle and fraudulently transfer community assets and separate property of Appellant's and Leslie Stevenson Reilly's to the mother of Mike Roos. In addition, Mr.Walter Karabian is a personal friend of Mike Roos' and advised him through his criminal investigation involving the Patrick Moriarty scandal. Mr. Karabian is aware of false testimony by Mike Roos regarding the lack of financial means (by his parents) to purchase an investment in Commerce Casino Card Club, that is part of the disputed assets in this case.

I declare under penalty of perjury that the foregoing is true and correct. Executed at Los Angeles, this 24th day of November 2009.

"s/"

Lorna Roos In Pro Per

Appendix R

Docket (Register of Actions)
Roos v. Roos
Division 3
Case Number B216438

Date	Description	Notes
06/02/2009	Notice of appeal lodged/received.	n/a 5/22/09 Lorna Roos
06/02/2009	Default notice sent-appellant notified per rule 8.100(c).	Party: Lorna Roos
06/16/2009	Received:	letter from aplt re: appeal filing fee was paid to SCLA on 5/22/09
06/17/2009	Civil case information statement filed.	
06/17/2009	Certificate of interested entities or persons filed by:	Party: Lorna Roos
06/17/2009		

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Filed letter from:
aplt re: incorrect information on superior court docket
06/19/2009
Filing fee.
rcvd via SCLA county run.
06/25/2009
Filed document entitled:
Notice to Request Exhibits held by Los Angeles Superior Court Party: Lorna Roos
07/07/2009
Received:
letter from Aplt addressed to SCLA re: request to locate records for case # BD202859
07/10/2009
Default re: 8.130(b) rptrs fees not deposited rcvd. dtd.
& failure to deposit $100 appeal fee, dated 6/9/09 SCLA.
07/14/2009
Appeal dismissed per rule 8.140(b).

07/20/2009
Received:
ltr from Aplt addressed to SCLA re: Aplt never received notice that Aplt was in default pursuant to

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CRC 8.130(b) and failure to deposit $100.00 processing fee. Aplt is requesting a formal inquiry as to the defaults.

07/21/2009

Received document entitled:

Notice Vacating Default from SCLA - deposit for CT & RT fees paid; dated 7/21/09.

07/21/2009

Order of dismissal vacated.

It appearing that through inadvertence and mistake by the Los Angeles Superior Court on July 14, 2009, this court dismissed the above-entitled appeal under Rule 8.140(b), for the appeal filed May 22, 2009. Now, therefore, it is ordered that the dismissal filed July 14, 2009, is vacated.

07/23/2009

Order filed.

The court has read & considered aplnt's notice to req exhibits held by the SCLA, filed on 6/25/09. The notice to req exh is hereby denied w/o prejudice to applnt's filing of a motion to amend the designation to include trial exhibits. Aplnt is directed to file a proper motion to amend the designation in this court pursuant to CRC 8.124(c).

07/24/2009

Appendix R

Received document entitled:
ntc vacating default dtd 7/21/09 SCLA-fees for clerk's transcript and fees for reporter's transcript were paid
07/24/2009
Notice per rule 8.124 - with reporter's transcript.
ntc of desig filed 6/1/09 SCLA
07/28/2009
Certificate of interested entities or persons filed by:
Party: Lorna Roos
07/31/2009
Received:
cert. of interested parties (Lorna Roos). rec'd via SCLA court run on 7/31/09
08/04/2009
Notice per rule 8.124 - with reporter's transcript.
Aplnt lodged RT w/SCLA - transcripts forthcoming per ntc of desig filed on 6/1/09.
08/06/2009
Record on appeal filed.
R-1 (10 pgs)
08/07/2009
Record imaged.
Ikon
08/28/2009
Record imaged.

Appendix R

From Ikon
09/08/2009
Appellant's appendix and opening brief filed.
Petitioner and Appellant: Roos, Lorna
Pro Per

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5 vols. appendix
09/11/2009
Filed proof of service.
amended to Appellant's Opening Brief & Appendix
09/18/2009
Motion/application to augment record filed.
(aplt.)
10/07/2009
Order filed.
The ruling on the motion to augment filed September 18, 2009 is deferred until the case is heard on the merits. (PK)
10/15/2009
Respondent notified re failure to file respondent's brief.

10/29/2009
Requested - extension of time

10/30/2009
Granted - extension of time.

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11/13/2009
Motion filed.
to reconsider the granting of extension of time to file respondent's brief, motion for restraining order and motion to order support order be put back in place with respondent's employer
11/23/2009
Opposition filed.
Respondent's opposition to appellant's motion to reconsider the court's having granted respondent's request for ext of time.
11/30/2009
Opposition filed.
Appellant's objection to Mr. Kenneth R. Nahigian's submitted opposition paperwork to the Court of Appeals objecting to motion to reconsider that was previously filed by appellant.
11/30/2009
Respondent's brief.
Respondent: Roos, Michael Y.
Attorney: Jordon Metz
11/30/2009
Default respondent/RPI; no certificate of interested persons filed.

11/30/2009
Request filed to:

Appendix R

Respondent's request for extension of time to file respondent's brief to 12/31/09
11/25/2009
Certificate of interested entities or persons filed by:
Lorna Roos --Supplemental certificate of interested entities or persons
12/01/2009
Order filed.
Motion to reconsider the granting of extension of time to file respondent's brief, motion for restraining order and motion to order support order be put back in place with respondent's employer is denied. PK,C
12/03/2009
Certificate of interested entities or persons filed by:
CIP due by Respondent Michael Roos
atty. Nahigian for respondent
12/07/2009
Denied - extension of time.
Respondent's having been filed November 30, 2009, the applicaton for extension of time to file respondent's brief is denied as moot. Croskey & Kitching*
12/14/2009
Motion filed.
to strike the respondent's brief & extension of time to file appellant's reply brief after ruling on motion to strike
12/14/2009

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Requested - extension of time

12/17/2009
Filed proof of service.
to motion to strike filed 12-14-09
12/17/2009
Granted - extension of time.

12/28/2009
Opposition filed.
to motion to strike respondent's brief & motion also includes request for sanctions & motion to augment to include attached document as part of the record on appeal.
12/29/2009
Opposition filed.
to respondent's reply to appellant's motion to strike & respondent's motion to augment
01/05/2010
Order filed.
Appellant's motion to strike respondent's brief and request for sanctions filed December 14, 2009, is denied. Klein-Kitching*
01/05/2010
Order filed.

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Respondent's motion to augment the record on appeal filed December 28, 2009, is denied. (Klein-Kitching**)

01/11/2010

Appellant's reply brief.

Petitioner and Appellant: Roos, Lorna
Pro Per

01/11/2010

Case fully briefed.

01/25/2010

Errata filed to:

Appellant's reply brief (by permission of the court) (PK)

02/02/2010

Motion filed.

Appellant Lorna Roos's Motion for Calendar Preference for Oral Arguments February 9 and or February 10, 2010. (Filed with permission of the court)

02/08/2010

Order filed.

Appellant's motion for calendar preference filed February 2, 2010, is denied. J. Kitching

03/12/2010

Calendar notice sent. Calendar date:

Appendix R

03/18/2010
Motion/application to augment record filed.
by aplt. (by permission of the court) (PK)
03/26/2010
Order filed.
IT IS HEREBY ORDERED that appellant's motion dated March 23, 2010, is ordered filed with permission of the court. The motion is filed as of the date of this order.
03/26/2010
Motion/application to augment record filed.
Appellant's motion with exhibits attached (filed with permission of the court. (Kitching)
03/29/2010
Order filed.
Having read and considered appellant's motions to augment filed September 18 2009, March 18, 2010 and March 26, 2010; IT IS HEREBY ORDERED that appellant's motions are denied. (Croskey, Acting P.J. & Kitching, J.)
04/13/2010
Order filed.
Appellant's motion for reconsideration of order issued 3-29-10 is filed with permission of the Court. The motion for reconsideration is denied. Klein-Kitching
04/13/2010

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Order filed.

Permission to file Appellant's Motion to Take Judicial Notice received April 12, 2010, is denied.
Klein-Kitching
04/14/2010
Mail returned and re-sent.

atty. Jordan Metz--notice issued 3-26-10 (address was correct)
04/14/2010
Cause argued and submitted.

05/10/2010
Filed letter from:

Respondent's letter request for a CD copy of oral argument. (Requested by Atty Metz)
CD mailed to Atty Jordon Metz on 5/11/10
06/23/2010
Opinion filed.

(Signed Unpublished)
The order is affirmed. Michael Roos is awarded costs on appeal. PK,K,C 7pgs. nfp
07/06/2010
Filed letter from:

Lorna Roos requesting copy of oral argument C.D.
C.D. mailed to Aplt Lorna Roos on 7/7/10 via UPS
07/08/2010
Rehearing petition filed.

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Appellant's petition for rehearing (includes request for judicial notice. Exhibits 1 -8 attached to petition)
07/12/2010
Petition for rehearing denied.
& the request for judicial notice is denied. PK,C
07/26/2010
Service copy of petition for review received.
Pet. Lorna Roos
07/26/2010
Record transmitted to Supreme Court.
1x4"
09/01/2010
Petition for review denied in Supreme Court.

09/16/2010
Remittitur issued.

09/16/2010
Case complete.

09/17/2010
Record returned from Supreme Court.
1x4"

Appendix S

Lorna Roos In Pro Per
1482 East Valley Rd., #305
Santa Barbara, CA. 93108
(805) 845-8395

COURT OF APPEAL, SECOND APPELLATE
DISCTRICT, DIVISION THREE
STATE OF CALIFORNIA

Lorna Roos	) Appeal No. B 216438
Petitioner and Appellant	)Superior No. BD 202859
v.	) MOTION TO STRIKE
Michael Y. Roos	) RESPONDENT'S
	) REPLY BRIEF
Respondent and Respondent)	
&	)
_____	)

APPROPRIATE SANCTIONS

Pursuant to rule 8.54 of the California Rules of Court, I, Lorna Roos, request this motion to strike Respondent Reply Brief in its entirety as the brief fails to adhere to the Rules of the Court and or Appellate Procedure. Also, Pursuant to the rule 8.276 of California Rules of the Court Appellant, Lorna Roos requests appropriate sanctions.

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I declare under penalty of perjury that the foregoing is true and correct. Executed at Los Angeles, this 14th, day of December, 2009.

"s/"

Lorna Roos In Pro Per

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MEMORANDUM OF POINTS AND AUTHORITIES
MOTION TO STRIKE RESPONDENT'S ENTIRE BRIEF SHOULD BE ORDERED TO ALLOW APPELLANT
TO RECEIVE FULL AND FAIR REVIEW

Pursuant to Rule 8.54 of California Rules of the Court, Appellant, Lorna Stevenson Roos, files this motion to strike Respondent's Reply Brief in its entirety because the brief does not conform to the requirements of the court rules and appellate procedure. The brief unlawfully attempts to expand the record with new issues, arguments, and evidence that are not part of the record.

The brief is in direct violation of the rules of the court as it contains impermissible and inadmissible matter drawn from outside the record under Civil Code of Procedure 435-437, specifically 436(a)(b). Additionally each expansion of the record is absent of required citations to the record and therefore should be stricken per California Rules of the Court, rule 8.204(a)(1)(c). *(City of Lincoln v. Barringer (2002) 102 Cal.App.4th 1211,1239,fn. 16[126 Cal.Rptr. 2d 178].)* California rules of the court are clear that every document and factual argument cited on appeal must actually have been presented in the court below and every reference to a matter in the appellate record must be supported with a citation to

the volume and page number of the record where the matter appears. When non-record issues, arguments, and evidence are raised in a reply brief, the appropriate remedy by the court is to strike it. As documented below, the reply brief submitted by Respondent is riddled with violations of the fundamental rules of the court and should be stricken.

Importantly, what is NOT RESPONDED TO in the reply brief is the most damaging to the Respondent. The reply brief fails to address the key issues of the appeal such as: new evidence exposing non-disclosure of financial assets by Respondent, Mike Roos; judicial misconduct by Judge Diaz and Judge Black in preventing discovery of critical evidence; fraudulent credits in the amount of $924,000 granted to Respondent, Mike Roos, from behind closed doors by Judge Black and District Attorney/Department of Children and Family Services (theft by fraudulent audits). The audits and orders that were used to grant these fraudulent retroactive credits to Mike Roos have NEVER been provided to Appellant despite numerous written requests to the Department of Children and Family Services and the District Attorney. To-date, both the District Attorney and the Department of Children and Family Services have unlawfully denied Appellant access to the records of how these fraudulent credits were granted. Judge Black improperly refused to

hear the issue (of theft by audit) when presented with this information in court by Appellant. Denial of financial resources to Appellant has resulted in an unfair playing field that is biased against appellant, and has resulted in self-representation before the court. The reply brief by Respondent is silent on these key issues of the appeal.

From 5/22/09 until 11/30/09 Respondent had adequate opportunity to designate the record for this appeal as per rule 8.121. Respondent also had ample opportunity to designate an appendix and chose not to. Instead of abiding by the rules of the court, Respondent now chooses to use his response brief as an attempt to expand the record with issues, arguments, and new evidence that ARE NOT part of the record. This behavior by Respondent is a clear violation of the rules of the court. "if it is not in the record, it did not happen". (*Protect Our Water v. County of Merced, 110 Cal. App. 4th 362,364 (2003).*)

Respondent had the opportunity in the lower court (in front of Judge Diaz) to respond to the issues, arguments, and evidence presented to the court by Appellant on 10/28/08 (and eventually served on an evasive Respondent on 1/16/09). Despite being granted several months to respond (until 4/27/09), Respondent did not file ANY OBJECTIONS OR DENIAL TO THE CHARGES, nor raise ANY new issues to the court of judge Diaz (such as his

newfound desire to: object to the new evidence, claim statute of limitations on support orders and fiduciary duty, allege re-litigating the decision, allege recycling old arguments, and attempt to explain concealment of material facts on the sale of the Kenilworth Avenue Family home). One can only speculate regarding the motives of Mike Roos for failing to respond to the new evidence and serious charges of fraud, embezzlement, and concealment of assets. Appellant believes that Respondent deliberately failed to reply to these charges out of his desire to minimize evidence and testimony that would only further incriminate himself. Regardless of why Respondent failed to respond, this reply brief cannot now be hijacked and used to raise NEW issues, arguments, and objections to improperly expand the record. Such behavior is a flagrant abuse of the rules and procedures of the court. "A party may not by–pass the fact finding process of the lower court and introduce new facts in its brief on appeal." *United States v. Allen, 522 F.2d 1229, 1235 (6th Cir. 1975)* (holding that an appellate court cannot consider material in a brief that is not part of the record).

In his statement of facts Respondent presents that child custody was decided by stipulation in March of 2000. This portrayal by Respondent is fraudulent and misleads the court about significant facts on child custody. This portrayal is unsupported by any valid factual evidence. Child custody was decided in

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April 23rd 2004, and it DID NOT occur by stipulation. Any investigation into the true facts and evidence will reveal that Respondent lost custody of his children in a backroom deal with Judge Black, the D.A., and L.A.P.D., whereby Mr. Mike Roos was forced with the hard choice to either give up all rights to his children or face prosecution for child abuse. The catalyst for this backroom deal was a 911 call from an independent party regarding allegations of child abuse by Mr. Mike Roos involving his youngest child while under his sole care. A subsequent police report on the incident included photos of the abused child. Department of Child Support Services was also involved and wanted Mr. Mike Roos criminally charged. Faced with potential jail time, Mr. Mike Roos unilaterally relinquished all parental rights to his two children at an emergency ex-parte hearing.

The brief must set forth all arguable issues, and contain citations to the appellate record as well as appropriate authority. (*People v. Barton (1978) 21 Cal. 3d 513, 519; Harris, supra 19 Cal. App. 4th at p. 714.)*

The Violations of the rules of the court are as follows:

A. Enlarging the record through the introduction of non-record evidence and New Issues and New Arguments never raised in the lower court:

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1. Page ii & Page 9, 11 introduces new *statute of limitations claim on fraudulent support orders*

2. Page ii, iii, & Page 9, 20,21 raises new *statute of limitations claim on non-disclosure of assets*

3. Page ii & Page 9, 11,18,21,27 introduces new allegation of "*recycles old arguments*"

4. Page ii & Page 9, 11, 21 introduces new *questions on the discovery of new evidence* on concealment of assets by Respondent that he failed to disclose in the 2004 trial (such as the Roos Family Living Trust that he owned as a co-trustor)

5. Page ii & Page 10, 20 introduces new allegation *community drained assets from Roos Family trust*

6. Page iii Page 22, 23 introduces new issues *regarding a value of Kenilworth in 2002 ???*

7. Page iii Page 24, introduces allegations that *discovery was not denied*

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8. Page iii Page 25 introduces new information on why *Respondent didn't respond to set aside motion*

9. Page iii, Page 18, 27 introduces *a new cross appeal claim* that Appellant has no right to be heard on appeal and there was no abuse of discretion

10. Page iii,20,32,33,34,35,36,&37 introduces new (false and misleading) information that an actual trial occurred before judge Diaz that included witnesses, written testimony, conspiracy theories, inflammatory language, and Respondent's alleged influence with the court. No such trial occurred.

B. Missing Citations:

Pages:
2,3,8,9,10,11,12,13,14,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36,&37

C. False Citations:

Pages:
3,6,7,9,10,15,19,20,21,22,23,24,25,26,27,29,30,&31

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D. Misrepresenting the Facts:

1. Page 2 stipulation/child custody completely false

2. Page 32-37 no trial, no testimony, no witnesses in the court of Judge Diaz

3. Page 4,5, falsely claims Appellant got Guideline support orders when no tax returns were given and Respondent concealed assets and committed perjury on every single income and expense statement
4. Page ii, 18 falsely reframes Appellants appeal to be an appeal on a "Decision of 2004" rather than the 4/27/09 denial by Judge Diaz on set aside motion of Judgment dated 6/4/04.

E. Confidential Inadmissible Evidence that requires prior judicial authorization:
Page 1 & 2 Kay Bathurst report

F. Introduction of disrespectful, scandalous, and abusive language:
Page 1,2,6,7,8,10,26,27,31,32,36,& 37

To include: Exhibit "B" Reproduction of Respondent's Reply Brief showing a line drawn through the

portions to be stricken from the record in violation of the California Rules of the Court and Appellate Procedure listing the violations that apply as stated above from A-F on each page.

Respondent includes a confidential report (Kay Bathurst report) on the very first page of his brief, which is inadmissible because it not part of the record AND because it is Confidential. Any Confidential information requires judicial notice. This has not occurred. Additionally, the fact that the report was paid for by Respondent, is disrespectful and scandalous to Appellant, and is intended to bias the court makes the magnitude of the infraction even more serious. Appellant requests appropriate sanctions for the unethical behavior of Mr. Kenneth Nehigian and Mr. Jordan Metz.

"An attorney who files a brief which contains disrespectful, scandalous, or abusive language directed against courts, officials, or litigants violates a statue requiring attorneys to maintain the respect due to courts and judicial officers, commits a reprehensible breach of duty, and is guilty of contempt of the appellate court." (*4 Cal. Jur.2d 322, Appeal and Error, 486)* Respondent's attorney Mr. Jordan Metz knowingly commits the violation stated above over ten different times (See RRB page 1,2,6,7,8,10,26,27,31,32,36,& 37).

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To include: Declaration of Lorna Roos in support of motion to strike. Exhibit "A"

In closing, Appellant asks the court to make appropriate sanctions and strike Respondent's Reply brief in its entirety.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

Respectfully submitted,

"s/"

Lorna Roos In-Pro Per